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I

(Acts whose publication is obligatory)

**DECISION No 293/2000/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 January 2000
adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preven-
tive measures to fight violence against children, young persons and women**

THE EUROPEAN PARLIAMENT AND
THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152 thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) Physical, sexual and psychological violence against children, young persons and women constitutes a breach of their right to life, safety, freedom, dignity and physical and emotional integrity and a serious threat to the physical and mental health of the victims of such violence; the effects of such violence are so widespread throughout the Community as to constitute a major health scourge.
- (2) It is important to recognise the serious immediate and long-term implications for health, psychological and social development, and for the equal opportunities of those concerned, that violence has for individuals, families and communities and the high social and economic costs to society as a whole.
- (3) According to the World Health Organisation's definition, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity; in accordance with Article 3(p) of the Treaty,

Community action is to include a contribution to the attainment of a high level of health protection.

- (4) These principles are recognised in the United Nations Convention of 1979 on the elimination of all forms of discrimination against women, the United Nations Convention of 1989 on the rights of the child, the Vienna Declaration of 1993 on the elimination of violence against women, the Declaration and Platform of Action adopted at the IVth Conference on women held in Beijing in 1995, the Declaration and the Plan of Action against the sex trade and the exploitation of minors adopted at the Stockholm Conference in 1996, and the Lisbon Declaration of 1998 on youth policies and programmes of the world conference of ministers of youth.
- (5) The European Union has taken action in the field of justice and home affairs in particular by the Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children ⁽⁵⁾; the criminal law aspects of violence are a matter for the Member States.
- (6) The European Parliament, in its Resolutions of 18 January 1996 on trafficking in human beings ⁽⁶⁾, of 19 September 1996 on minors who are victims of violence ⁽⁷⁾, of 12 December 1996 on measures to protect minors in the European Union ⁽⁸⁾ and of 16 September 1997 on the need to establish a European Union-wide campaign for zero tolerance of violence against women ⁽⁹⁾ and of 16 December 1997 on trafficking in women for the purpose of sexual exploitation ⁽¹⁰⁾ has called upon the Commission to draw up and implement action programmes to combat such violence.

⁽¹⁾ OJ C 259, 18.8.1998, p. 2,
OJ C 89, 30.3.1999, p. 42 and
OJ C 162, 9.6.1999, p. 11.

⁽²⁾ OJ C 169, 16.6.1999, p. 35.

⁽³⁾ OJ C 89, 30.3.1999, p. 42.

⁽⁴⁾ Opinion of the European Parliament of 16 April 1999 (OJ C 219, 30.7.1999, p. 497); Council common position of 13 September 1999 (OJ C 317, 4.11.1999, p. 1); Decision of the European Parliament of 17 November 1999 (not yet published in the Official Journal) and Council Decision of 13 December 1999.

⁽⁵⁾ OJ L 63, 4.3.1997, p. 2.

⁽⁶⁾ OJ C 32, 5.2.1996, p. 88.

⁽⁷⁾ OJ C 320, 28.10.1996, p. 190.

⁽⁸⁾ OJ C 20, 20.1.1997, p. 170.

⁽⁹⁾ OJ C 304, 6.10.1997, p. 55.

⁽¹⁰⁾ OJ C 14, 19.1.1998, p. 39.

- (7) The Commission, in its Communication of 24 November 1993 on the framework for action in the field of public health, identified, *inter alia*, the prevention of injuries as an important area for action in the public health field; in this framework on 8 February 1999 Decision No 372/1999/EC of the European Parliament and of the Council was adopted on a programme of Community action on injury prevention ⁽¹⁾.
- (8) By providing support for acquiring better knowledge and understanding of, and wider dissemination of information about violence against children, young persons and women and by developing actions complementary to existing Community programmes and actions, while avoiding unnecessary duplication, this programme will contribute greatly to curbing exploitation and ensuring a high level of human health protection, taking into account its physical, mental and social aspects, and a high quality of life.
- (9) Direct action concerning violence against children, young persons and women is in essence part of Member States' activity at national, regional or local level.
- (10) The Community can provide added value to the actions of Member States concerning the prevention of violence, including violence in the form of sexual exploitation and abuse perpetrated against children, young persons and women through the dissemination and the exchange of information and experience, promoting an innovative approach, the joint establishment of priorities, the development of networking as appropriate, the selection of Community-wide projects and the motivation and mobilisation of all parties concerned.
- (11) This programme can bring added value by identifying and stimulating good practice, by encouraging innovation and by exchanging relevant experience of actions undertaken in the Member States, including an exchange of information relating to the various laws and the results achieved.
- (12) Therefore, in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed measure can be better achieved by the Community; this Decision confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (13) Active partnership between the Commission, the Member States and non-governmental organisations (NGOs) and in particular organisations concerned with the welfare and quality of life of children, young persons and women needs to be promoted in this area and synergy between all the relevant policies and measures encouraged by promoting cooperation between NGOs, other organisations and national, regional and local authorities.
- (14) In order to achieve the objectives of the programme and use the resources available in the most efficient way, the areas in which work is to be done must be carefully chosen by selecting projects which offer a greater Community added value and show the way towards trying out and disseminating innovative ideas to prevent violence, in the context of a multidisciplinary approach.
- (15) Cooperation with the international organisations competent in the fields covered by the programme and with third countries should be fostered, as well as with all those likely to be involved in preventing violence.
- (16) Provision should be made for opening up this programme to participation by the applicant countries in the pre-accession phase, in accordance with the conditions established in the relevant agreements, particularly the Association Agreements and the additional protocols to those Agreements.
- (17) In order to increase the value and impact of the programme, a continuous assessment of the actions undertaken should be carried out, with particular regard to their effectiveness and the achievement of the objectives set and with a view, where appropriate, to making the necessary adjustments.
- (18) This programme should be of a four-year duration in order to allow sufficient time for actions to be implemented to achieve the objectives set.
- (19) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (20) This Decision lays down for the entire duration of the programme a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure ⁽³⁾.

HAVE DECIDED AS FOLLOWS:

Article 1

Establishment of the programme

1. A programme of Community action to fight violence towards children, young persons and women, is hereby adopted for the period 1 January 2000 to 31 December 2003.

⁽¹⁾ OJ L 46, 20.2.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ C 172, 18.6.1999, p. 1.

2. This programme aims to contribute towards ensuring a high level of protection of physical and mental health by the protection of children, young persons and women against violence (including violence in the form of sexual exploitation and abuse), by the prevention of violence and by the provision of support for the victims of violence, in order, in particular, to prevent future exposure to violence. It further aims to assist and encourage NGOs and other organisations active in this field. By so doing, the programme will contribute to social well-being.

3. The actions to be implemented under the programme, as set out in the Annex, are intended to promote:

- (a) transnational actions to set up multidisciplinary networks and to ensure exchange of information, best practice and cooperation at Community level;
- (b) transnational actions aimed at raising public awareness;
- (c) complementary actions.

Article 2

Implementation

1. The Commission shall ensure implementation, in close cooperation with the Member States, of the actions referred to in Article 1(3) in accordance with Article 5.

2. The Commission shall, after consultations with the Member States, cooperate with institutions and organisations active in the field of prevention of and protection against violence against children, young persons and women, and of the support of victims. It shall encourage, in particular, transnational cooperation between NGOs and national, regional and local authorities.

3. The Commission shall take account of activities carried out in this field at national, regional and local level. It shall also ensure a balanced approach in respect of the target groups.

4. The actions undertaken shall involve a significant number of Member States.

Article 3

Budget

1. The financial framework for the implementation of the four-year programme (2000 to 2003) is hereby set at EUR 20 million.

2. The annual appropriations shall be established by the Budgetary Authority within the limits of the financial perspectives.

3. The Community contribution shall vary according to the nature of the action. It may not exceed 80 % of the total cost of the action.

Article 4

Consistency and complementarity

The Commission shall ensure that there is consistency and complementarity between the Community actions to be implemented under the programme and those implemented under

other relevant Community programmes and measures, including future developments in the field of public health.

Article 5

Implementing measures

1. The measures necessary for the implementation of this Decision relating to the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 6(2):

- (a) the annual plan of work for the implementation of the measures in the programme, including the budgetary implications and selection criteria;
- (b) the general balance between the various sections of the programme;
- (c) the procedures for coordination with programmes and initiatives which are of direct relevance to achievement of the aim of this programme;
- (d) the arrangements for cooperating with the third countries and international organisations referred to in Article 8;
- (e) the procedures for monitoring and evaluating the programme.

2. The measures necessary for the implementation of this Decision relating to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 6(3).

Article 6

Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. The Committee shall adopt its rules of procedures.

Article 7

Participation of the EFTA/EEA countries, the associated central and eastern European countries, Cyprus, Malta and Turkey

This programme shall be open to the participation of:

- the EFTA/EEA countries, in accordance with the conditions established in the EEA Agreement,

- the associated central and eastern European countries, in accordance with the conditions established in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils,
- Cyprus, funded by additional appropriations in accordance with procedures to be agreed with that country,
- Malta and Turkey, funded by additional appropriations in accordance with the provisions of the Treaty.

Article 8

International cooperation

Subject to Article 300 of the Treaty, in the course of implementing the programme, cooperation with third countries and with international organisations competent in the fields covered by the programme shall be fostered as well as with all those likely to be involved in preventing and protecting against all forms of violence.

Article 9

Monitoring and evaluation

1. In the implementation of this Decision, the Commission shall take the necessary measures to ensure the monitoring and continuous evaluation of the programme taking account of the general and specific objectives referred to in Article 1 and in the Annex.

2. During the second year of the programme, the Commission shall present an evaluation report to the European Parliament and to the Council.

3. The Commission shall submit a final report to the European Parliament and the Council on completion of the programme.

4. The Commission shall incorporate into the reports referred to in paragraphs 2 and 3 information on Community financing in the various fields of action and on complementarity with the other actions referred to in Article 4, as well as the results of the evaluations. It shall also send the reports to the Economic and Social Committee and the Committee of the Regions.

Article 10

Entry into force

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

Done at Brussels, 24 January 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

J. GAMA

ANNEX

SPECIFIC OBJECTIVES AND ACTIONS

I. TRANSNATIONAL ACTIONS TO SET UP MULTIDISCIPLINARY NETWORKS AND TO ENSURE EXCHANGE OF INFORMATION, BEST PRACTICE AND COOPERATION AT COMMUNITY LEVEL

Objective: *To support and encourage both non-governmental organisations (NGOs) and other organisations including public authorities active in the fight against violence to work together*

1. Support for the establishment and strengthening of multidisciplinary networks and the encouragement and support of cooperation between NGOs and the various organisations and public bodies at national, regional and local level, in order to improve on both sides the level of knowledge and understanding of each other's role and to facilitate the exchange of relevant information.
2. Stimulation and exchange of best practice, including pilot projects, at Community level on the prevention of violence and on the support and protection of children, young persons and women.

The networks shall in particular carry out activities to address the problems of violence that will:

1. produce a common framework for analysis of violence, including the definition of different types of violence, the causes of violence and all its consequences;
2. measure the real impact of the different types of violence within Europe on victims and society, in order to establish an appropriate response;
3. assess the types and effectiveness of measures and practices to prevent and detect violence including violence in the form of sexual exploitation and abuse and to provide support for victims of violence, in order, in particular, to prevent future exposure to violence.

II. TRANSNATIONAL ACTIONS AIMED AT RAISING PUBLIC AWARENESS

Objective: *To support the raising of public awareness of violence and the prevention of violence against children, young persons and women, including the victims of trafficking for the purpose of sexual exploitation, commercial sexual exploitation and other sexual abuse*

1. Encouragement of information campaigns in cooperation with the Member States and pilot projects with European added-value and awareness-raising activities among the general public and in particular, among children and young persons, educators and other categories involved as well as among the media about potential risks of violence and of ways of avoiding them, including knowledge of legislative measures, health education and training in the context of the fight against violence.
2. Development of a Community-wide information source to assist and inform NGOs and public bodies of publicly available information compiled by governmental, NGO and academic sources relevant to the field of violence, its prevention and the support of victims, and the means to prevent violence, as well as the provision of information about all measures and programmes on this subject under the auspices of the Community. This should enable information to be integrated into all relevant information systems.
3. Studies in the field of violence and sexual abuse and the means of their prevention with the aim, *inter alia*, of identifying the most effective procedures and policies for preventing violence, for supporting victims of violence, in order, in particular, to prevent future exposure to violence, and for examining the social and economic costs, in order to establish appropriate responses to this phenomenon.
4. Improvement of recognition, reporting and management of the consequences of violence.

III. COMPLEMENTARY ACTIONS

In carrying out the programme, the Commission, in compliance with Articles 2 and 5 of the Decision, can have recourse to technical assistance organisations the financing of which shall be provided for within the overall financial framework for the programme. It can, under the same conditions, have recourse to experts. Furthermore, the Commission will be able to organise seminars, colloquia or other meetings of experts, likely to facilitate the implementation of the programme and enhance information, publication and dissemination actions.

COMMISSION REGULATION (EC) No 294/2000**of 8 February 2000****amending Regulation (EC) No 1393/1999 increasing to 84 234 tonnes the quantity of barley held by the Belgian intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Commission Regulation (EC) No 1393/1999 ⁽⁵⁾, as last amended by Regulation (EC) No 2050/1999 ⁽⁶⁾, opened a standing invitation to tender for the export of 53 483 tonnes of barley held by the Belgian intervention agency. Belgium informed the Commission of the intention of its intervention agency to increase by 30 751 tonnes the quantity for which a standing invitation to tender for export has been opened. The total quantity of barley held by the Belgian intervention agency for which a standing invitation to tender for export has been opened should be increased to 84 234 tonnes.
- (3) This increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in

store. Annex I to Regulation (EC) No 1393/1999 must therefore be amended.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1393/1999 is hereby amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. The invitation to tender shall cover a maximum of 84 234 tonnes of barley for export to third countries, with the exception of the United States of America, Canada and Mexico.
2. The regions in which the 84 234 tonnes of barley are stored are stated in Annex I to this Regulation.'
2. Annex I is replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on the day 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, 8 February 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 163, 29.6.1999, p. 26.

⁽⁶⁾ OJ L 255, 30.9.1999, p. 13.

ANNEX

ANNEX I

(tonnes)

Place of storage	Quantity
Hainaut	16 771
Liège	11 366
Namur	22 167
Oost-Vlaanderen	23 308
West-Vlaanderen	10 622

COMMISSION REGULATION (EC) No 295/2000**of 8 February 2000****amending Regulation (EC) No 1667/98 increasing to 634 125 tonnes the quantity of barley held by the Swedish intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Commission Regulation (EC) No 1667/98 ⁽⁵⁾, as last amended by Regulation (EC) No 181/2000 ⁽⁶⁾, opened a standing invitation to tender for the export of 597 710 tonnes of barley held by the Swedish intervention agency; whereas, Sweden informed the Commission of the intention of its intervention agency to increase by 36 407 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the Swedish intervention agency for which a standing invitation to tender for export has been opened should be increased to 634 125 tonnes;
- (3) this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in

store; whereas Annex I to Regulation (EC) No 1667/98 must therefore be amended;

- (4) the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1667/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. The invitation to tender shall cover a maximum of 634 125 tonnes of barley to be exported to all third countries with the exception of the United States of America, Canada and Mexico.

2. The regions in which the 634 125 tonnes of barley are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on the day 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, 8 February 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 211, 29.7.1998, p. 17.

⁽⁶⁾ OJ L 22, 27.1.2000, p. 42.

ANNEX

ANNEX I

(tonnes)

Place of storage	Quantity
Ättersta	7 584
Boarp	2 480
Brännarp	2 624
Broddbo 1	5 997
Broddbo 2	6 076
Djurön	112 474
Ervalla	934
Falun	878
Fammarp	19 046
Funbo-Lövsta	6 579
Gamleby	2 835
Gårdsjö	2 565
Gävle	10 847
Gimo	23 901
Gistad	3 761
Gullspång	2 391
Halmstad (Engströms)	4 659
Hästholmen	5 089
Helsingborg	73 933
Hova	12 981
Kalmar	15 738
Karlshamn	87 536
Katrineholm	2 068
Köping	27 051
Laholm	2 737
Mariestad	1 956
Mjölby	1 804
Moraby	1 637
Motala	2 807
Norrtälje	10 014
Ormesta	17 988
Österbybruk	10 878
Otterbäcken	4 075
Rimforsa	21 449
Rök	4 994
Signestorp	4 517
Simonstorp	5 022
Skivarp	17 301
Söråker	13 053
Stallarholmen	2 062
Stavreviken	1 479
Stockholm (Kvarnholmen)	29 957
Tjustorp	19 849
Värnamo	5 742
Velanda	10 780
Vimmerby	3 997

COMMISSION REGULATION (EC) No 296/2000
of 8 February 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 9 February 2000.

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

Done at Brussels, 8 February 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 8 February 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	109,0
	204	57,9
	212	104,9
	624	191,1
	999	115,7
0707 00 05	052	132,5
	628	166,1
	999	149,3
0709 10 00	220	190,9
	999	190,9
0709 90 70	052	135,9
	204	71,9
	628	144,3
	999	117,4
0805 10 10, 0805 10 30, 0805 10 50	052	42,3
	204	38,4
	212	41,1
	600	37,7
	624	59,8
	999	43,9
0805 20 10	052	53,4
	204	61,4
	999	57,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	68,3
	204	73,2
	464	143,4
	600	76,1
	624	67,3
	999	85,7
0805 30 10	052	54,4
	600	67,4
	624	66,2
	999	62,7
0808 10 20, 0808 10 50, 0808 10 90	039	83,4
	400	87,4
	404	84,0
	720	70,5
	728	76,8
	999	80,4
0808 20 50	064	70,0
	388	104,4
	400	110,8
	528	100,4
	720	101,4
	999	97,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 297/2000**of 8 February 2000****on the opening of additional quotas for imports into the Community of certain textile products originating in certain third countries participating in trade fairs organised in 2000 in the European Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ⁽¹⁾, as last amended by Commission Regulation (EC) No 1072/99 of 10 May 1999 ⁽²⁾ and especially Article 8 thereof,

Whereas:

- (1) Additional quotas to those indicated in Annex V to Council Regulation (EEC) No 3030/93 may be opened when required under special circumstances; that the Commission has received a request to open additional quotas in view of trade fairs to be held in 2000.
- (2) Additional quotas have already been opened for trade fairs in previous years for certain third countries.
- (3) Access to the additional quotas should be limited to products which have been exhibited by the exporting countries at the relevant fair and for the quantities agreed to by sales contracts, as certified by the competent authorities of the Member State where the fair is taking place.
- (4) In order to avoid an overutilisation of these additional quotas it appears appropriate to request the Member State of the territory in which the fair is taking place, on the one hand, to ensure that the total amounts covered by certified contracts do not exceed the limits set for these additional quotas and, on the other hand, to inform the Commission after closure of the fair of the total quantities covered by such certified contracts.
- (5) It seems appropriate to apply to imports into the Community of products for which the additional quotas are opened the provision of Council Regulation (EEC) No 3030/93 which are applicable to imports of products subject to quantitative limits set out in Annex V of the said Regulation, with the exception of those relating to flexibilities.
- (6) Requests for import authorisations should moreover be accompanied by the contract signed at the relevant fair,

as certified by the competent authorities of the Member State where it is held.

- (7) In order to avoid circumvention, issue of import authorisations should only cover products shipped in the supplier country in which they originate no earlier than 30 days after the closure of the relevant fair.
- (8) The measures provided for in this Regulation are in conformity with the opinion of the Textile Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In addition to the quantitative limits on imports established by Regulation (EEC) No 3030/93, additional quotas shall be opened in respect of the trade fairs to be held in 2000 in the European Community as set out in the Annex hereto.

Article 2

1. Access to the additional quotas referred to in Article 1 shall be limited to such products which have been exhibited by the exporting countries at the fair and for the quantities agreed by a sales contract signed at the relevant fair as certified by the competent authorities of the Member States where the fair takes place.

2. The competent authorities of the Member State in the territory of which the fair is taking place shall ensure that the total amounts covered by certified contracts do not exceed the limits fixed in the Annex.

3. The Commission shall be informed by the relevant Member State not later than 30 days after the closure of the fair of the total quantities covered by contracts certified as having been concluded during the fair. This information shall be provided by supplier country and category.

Article 3

1. Without prejudice to paragraphs 2 and 3 of this Article imports into the Community of products for which additional quotas have been opened shall be subject to the provisions of Regulation (EEC) No 3030/93 which are applicable to imports of products subject to quantitative limits established in Annex V of the said Regulation, with the exception of those relating to flexibilities.

⁽¹⁾ OJ L 275, 8.11.1993, p. 1.

⁽²⁾ OJ L 134, 28.5.1999, p. 1.

2. Import authorisations can only be issued on the presentation of an export licence bearing in box 9 an indication of the fair and year to which they relate and accompanied by the original of the certified contract referred to in Article 2.
3. Import authorisations shall only cover products shipped into the Community from the third country in which they originate no earlier than 30 days after the closure of the fair.

Article 4

This Regulation shall enter into force on the seventh 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, 8 February 2000.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

Additional quotas for the Berlin trade fair to be held from 29 March to 2 April 2000

(The complete description of the goods is shown in Annex I to Council Regulation (EEC) No 3030/93)

Category	Unit	Third country ⁽¹⁾	Quantitative limit
1	tonnes	Pakistan	66
	tonnes	Ukraine	2
4	1000 pieces	Belarus	4
	1000 pieces	India	454
	1000 pieces	Indonesia	212
	1000 pieces	Malaysia	94
	1000 pieces	Pakistan	225
	1000 pieces	Ukraine	4
	1000 pieces	Vietnam	25
5	1000 pieces	Belarus	4
	1000 pieces	India	252
	1000 pieces	Malaysia	42
	1000 pieces	Pakistan	215
	1000 pieces	Ukraine	12
	1000 pieces	Vietnam	20
6	1000 pieces	India	118
	1000 pieces	Indonesia	131
	1000 pieces	Malaysia	92
	1000 pieces	Sri Lanka	116
	1000 pieces	Vietnam	20
7	1000 pieces	India	407
	1000 pieces	Indonesia	98
	1000 pieces	Sri Lanka	99
	1000 pieces	Vietnam	25
8	1000 pieces	Belarus	4
	1000 pieces	India	323
	1000 pieces	Indonesia	518
	1000 pieces	Malaysia	82
	1000 pieces	Pakistan	158
	1000 pieces	Sri Lanka	270
	1000 pieces	Ukraine	4
	1000 pieces	Vietnam	220
9	tonnes	Pakistan	233
12	1000 pairs	Belarus	4
	1000 pairs	Ukraine	20
15	1000 pieces	Belarus	4
	1000 pieces	India	124
	1000 pieces	Ukraine	20
	1000 pieces	Vietnam	20
16	1000 pieces	Ukraine	4
18	tonnes	Vietnam	5

Category	Unit	Third country ⁽¹⁾	Quantitative limit
20	tonnes	Belarus	2
	tonnes	India	294
	tonnes	Pakistan	149
	tonnes	Ukraine	2
21	1000 pieces	Sri Lanka	240
	1000 pieces	Vietnam	30
26	1000 pieces	Belarus	4
	1000 pieces	India	383
	1000 pieces	Ukraine	4
27	1000 pieces	Belarus	4
	1000 pieces	India	372
29	1000 pieces	India	268
78	tonnes	Vietnam	5
118	tonnes	Belarus	2

⁽¹⁾ Additional quotas are opened on condition that trade in textile products originating in the countries concerned will remain subject in 2000 to a specific conventional regime.

COMMISSION REGULATION (EC) No 298/2000
of 8 February 2000
amending Regulation (EC) No 2190/96 on detailed rules for implementing Council Regulation (EC)
No 2200/96 as regards export refunds on fruit and vegetables

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 35(11) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2190/96 ⁽³⁾, as last amended by Regulation (EC) No 1303/1999 ⁽⁴⁾, lays down detailed rules for the application of Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables.
- (2) As for other destinations, a limit should be placed on the period of validity of licences for the export of apples to Sri Lanka.

- (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

In the second subparagraph of Article 4(5) and the third subparagraph of Article 5(1) of Regulation (EC) No 2190/96, the words 'Costa Rica and Japan' are replaced by the words 'Costa Rica, Japan and Sri Lanka'.

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, 8 February 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 292, 15.11.1996, p. 12.

⁽⁴⁾ OJ L 155, 22.6.1999, p. 29.

DIRECTIVE 1999/103/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 January 2000
amending Council Directive 80/181/EEC on the approximation of the laws of the Member States
relating to units of measurement

THE EUROPEAN PARLIAMENT AND
THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the opinion from the commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) At international level the 19th Conférence générale des poids et mesures (1991) extended the list of SI prefixes to be used for multiples and submultiples of SI units.
- (2) The International Organisation for Standardisation (ISO) has revised the principles and rules regarding quantities and units as laid down in the international standard ISO 31; rules for the practical use of the SI system are given by the international standard ISO 1000.
- (3) The text of Council Directive 80/181/EEC ⁽⁴⁾ should be brought into line with these international agreements and standards.
- (4) Certain third countries do not accept on to their market products marked exclusively in the legal units established by Directive 80/181/EEC; companies exporting their products to these countries will be disadvantaged if supplementary indications are disallowed after 31 December 1999; supplementary indications in non-legal units should therefore be authorised for a further period.
- (5) The application of Directive 80/181/EEC should be re-examined and the appropriate measures taken with a view to the use of a global system; the procedure of Article 18 of Council Directive 71/316/EEC ⁽⁵⁾, should apply where appropriate,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 80/181/EEC is hereby amended as follows:

1. In Article 3(2), '31 December 1999' shall be replaced by '31 December 2009'.
2. The following Article shall be added:

'Article 6a

Issues concerning the implementation of this Directive and, in particular, the matter of supplementary indications shall be further examined, and if necessary the appropriate measures adopted in accordance with the procedure referred to in Article 18 of Council Directive 71/316/EEC ^(*).

^(*) OJ L 202, 6.9.1971, p. 1.'

⁽¹⁾ OJ C 89, 30.3.1999, p. 8.

⁽²⁾ OJ C 169, 16.6.1999, p. 1.

⁽³⁾ Opinion delivered on 15 December 1999 (not yet published in the Official Journal). Council Decision of 16 December 1999.

⁽⁴⁾ OJ L 39, 15.2.1980, p. 40. Directive as last amended by Directive 89/617/EEC (OJ L 357, 7.12.1989, p. 28).

⁽⁵⁾ OJ L 202, 6.9.1971, p. 1.

3. The Annex shall be amended as follows:

- (a) In Chapter I, the text under the table in point 1.1.1 shall be replaced by the following:

'Celsius temperature t is defined as the difference $t = T - T_0$ between the two thermodynamic temperatures T and T_0 where $T_0 = 273,15$ K. An interval or difference of temperature may be expressed either in kelvins or in degrees Celsius. The unit "degree Celsius" is equal to the unit "kelvin".'

- (b) The definitions of the SI supplementary units following the table in point 1.2.1 shall be replaced by the following:

'Unit of plane angle

The radian is the angle between two radii of a circle which cut off on the circumference an arc equal in length to the radius.

(International standard ISO 31 — 1: 1992)

Unit of solid angle

The steradian is the solid angle of a cone which, having its vertex in the centre of a sphere, cuts off on the surface of the sphere an area equal to that of a square with sides of length equal to the radius of the sphere.

(International standard ISO 31 — 1: 1992).'

- (c) The table in point 1.3 shall be replaced by the following:

Factor	Prefix	Symbol	Factor	Prefix	Symbol
10^{24}	yotta	Y	10^{-1}	deci	d
10^{21}	zetta	Z	10^{-2}	centi	c
10^{18}	exa	E	10^{-3}	milli	m
10^{15}	peta	P	10^{-6}	micro	μ
10^{12}	tera	T	10^{-9}	nano	n
10^9	giga	G	10^{-12}	pico	p
10^6	mega	M	10^{-15}	femto	f
10^3	kilo	K	10^{-18}	atto	a
10^2	hecto	H	10^{-21}	zepto	z
10^1	deca	da	10^{-24}	yocto	y'

- (d) Point 3 shall be replaced by the following:

'3. UNITS USED WITH THE SI, WHOSE VALUES IN SI ARE OBTAINED EXPERIMENTALLY

Quantity	Unit		
	Name	Symbol	Definition
Energy	Electronvolt	eV	The electron volt is the kinetic energy acquired by an electron in passing through a potential difference of 1 volt in vacuum
Mass	Unified atomic mass unit	u	The unified atomic mass unit is equal to 1/12 of the mass of an atom of the nuclide ^{12}C .

Note: The prefixes and their symbols listed in 1.3 may be used in conjunction with these two units and with their symbols.'

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 9 February 2001. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. Member States shall lay down the procedure for such reference.

Article 3

Without prejudice to Directive 80/181/EEC, Member States shall, after 31 December 1999, authorise or continue to authorise the use of the supplementary indications referred to in Article 3 of that Directive.

Article 4

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

Done at Brussels, 24 January 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

J. GAMA

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 July 1999

concerning State aid, financed by parafiscal charges, which the Netherlands intends to grant for promoting ornamental plants

(notified under document number C(1999) 3440)

(Only the Dutch text is authentic)

(2000/116/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 Regulation (EEC) No 234/68 of the Council of 27 February 1968 on the establishment of a common organisation of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage ⁽¹⁾, as last amended by Regulation (EC) No 3290/94 ⁽²⁾,

The parties concerned having been given notice, in accordance with the first subparagraph of Article 88(2) of the Treaty, to submit their comments ⁽³⁾, and having regard to those comments,

Whereas:

I. Procedure

- (1) In accordance with Article 88(3) of the Treaty, the Dutch authorities notified the above aid measure to the Commission by letter of 9 December 1996, registered on 12 December 1996. Further information was supplied by letter of 4 March 1997, registered on 5 March 1997.
- (2) By letter SG(97) D/4124 of 30 May 1997 the Commission informed the Dutch Government of its decision to initiate the procedure, under Article 88(2) of the Treaty, in respect of the notified aid measure.

- (3) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽⁴⁾. The Commission asked the interested parties to submit their comments on the aid in question. It passed the comments received on to the Dutch authorities and gave them the opportunity to react. The Netherlands informed the Commission of its comments by letter of 22 June 1998.
- (4) Further information was supplied at a meeting between representatives of the Dutch Government and the producer organisation on 23 November 1998.

II. Detailed description of the aid measure

- (5) The notification concerns altering a parafiscal charge levied in order to finance an existing aid scheme for promotional activities. The new provision would allow a charge to be applied to products imported from other Member States, but would ensure that the resulting revenue was channelled back to the representative promotional organisations.
- (6) The existing aid is granted for sales promotion in the ornamental plant sector (aid measure No 766/95). The promotional activities are carried out by the Bloemenbureau Holland. The aid is financed from a parafiscal charge which the former Productschap voor Siergewassen (PVS) — now the Productschap Tuinbouw — levies on sales, in the Netherlands, of ornamental plants or their propagating material. The charge is based on the value of the products sold and must be paid by all growers and importers of ornamental plants. Products imported from other Community Member States are expressly exempt from the charge.

⁽¹⁾ OJ L 55, 2.3.1968, p. 1.

⁽²⁾ OJ L 349, 31.12.1994, p. 105.

⁽³⁾ OJ C 227, 26.7.1997, p. 5.

⁽⁴⁾ See footnote 3.

The Commission has always regarded revenue from a charge imposed by national law as State resources within the meaning of Article 87(1) of the Treaty. Since the revenue in question is used to promote certain Dutch products (flowers and plants), and since it therefore 'distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods', the Dutch measure is an aid measure within the meaning of Article 87(1) of the Treaty.

Under the draft amendment, the exemption for products imported from other Member States is to be abolished and they are to be taxed in the same way as Dutch products or products imported from third countries. All revenue from the charge on products imported from other Member States is to be used for promotion campaigns in the Member States concerned, based on close consultation between the Productschap and the other Member States' representative organisations.

The Productschap will conclude contracts for carrying out the promotional activities with the representative organisations in all the Member States, stipulating how the revenue is to be spent on generic promotion campaigns for ornamental plants. The Dutch authorities have submitted a model contract.

- (7) The Dutch authorities have emphasised that the proposed contracts with representative promotional organisations in the other Member States will be concluded on a voluntary basis, without any pressure being exerted. In its contract offer letter to potential partner organisations, the Productschap explains that the purpose of the contract is to levy a charge on products from the Member State concerned and to reimburse the resulting revenue. The Dutch authorities point out that one of the recitals preceding the contract provisions states that the charge is to be levied on 'products traded in or via the Netherlands'. According to the Dutch authorities, the contract can therefore be concluded only if the other Member State's representative organisation expressly agrees that its products traded in or via the Netherlands are to be subject to the charge and that the resulting revenue is to be channelled back.

The Dutch authorities guarantee that, if such a contract cannot be concluded in respect of a particular Member State, that Member State's products will not be subject to the charge.

- (8) The main provision of the model contract proposed by the Productschap is that the promotional activities are to be determined and implemented in mutual consultation between the Productschap and the Member State's promotional organisation. The contract also stipulates that all promotional activities are to be subject to

approval by the Member State's promotional organisation, which may veto any proposal at any time. Where consultation does not result in agreement being reached, a committee set up by both parties may issue a binding recommendation. The committee is to be made up of a member appointed by each side and an independent third party appointed by the contracting organisations' representatives.

- (9) The Productschap applies three selection criteria in order to ensure that partner organisations in the other Member States are representative. Such organisations must:
- (a) be able to carry out promotional activities;
 - (b) operate throughout the Member State concerned;
 - (c) represent a broad cross-section of producers and traders.
- (10) The Commission has noted from the information provided by the Dutch authorities that, even where an organisation which satisfies the three criteria has not been found, a producer or trader organisation should be sought which represents the sector and which is engaged *inter alia* in promotional activities. Where several organisations satisfy the selection criteria, they are all to be consulted and either the contract is to be concluded with them all or those with which no contract is concluded are to recognise as representative the organisation with which the contract is concluded. According to the Dutch authorities, this makes it possible to avoid an arbitrary choice of partner organisation.
- (11) The Dutch authorities have provided a detailed overview of the partner organisations with which work will be undertaken in the different Member States, other potential partner organisations, and the reasons why — in accordance with the above criteria — each organisation was chosen.
- As regards the nature of the promotional aid, the Dutch authorities have confirmed their previous statement that the existing programme (aid measure No 766/95) complies with the Commission framework for national aids for the advertising of agricultural products⁽⁵⁾ and that the same applies to promotional activities carried out in cooperation with partner organisations in other Member States. The Commission therefore regards the new programme's aid component as compatible with the common market.
- (12) The Dutch authorities propose to introduce a charge on products imported from other Member States. Based on the judgment by the Court of Justice of the European Communities in Case 47/69 *France v Commission*⁽⁶⁾, the Commission generally regards aid financed from parafiscal charges which also apply to products imported from other Member States as incompatible with the common market.
- (13) The Commission considers the fact that other Member States' partner organisations must first agree to the charge being levied on their products is an important factor which distinguishes it from usual parafiscal charges. That agreement appears to make the charge on imported products voluntary in character, since the

⁽⁵⁾ OJ C 302, 12.11.1987, p. 6.

⁽⁶⁾ European Court Reports 1970, p. 487.

Productschap may levy charges on products imported from other Member States only if the partner organisations in the Member States concerned accept the scheme. The charge on imported products can therefore be mandatory in character only if such agreement exists.

In the Commission's opinion, the fact that the revenue is channelled back to the partner organisations is also a factor which distinguishes the scheme from usual para-fiscal charges.

- (14) The Commission therefore concluded that, subject to the conditions referred to under point 13, the proposed scheme could be regarded as compatible with the common market since it is based on voluntary agreement by the representative partner organisations in the Member States concerned and since, because the tax revenue is channelled back to the Member States in

question, it could be assumed that the tax burden which is coupled with the benefit resulting from the aid measure is no greater for imported products than for domestic products.

- (15) Nevertheless, the Commission very much doubts whether the conditions referred to under point 13 have been complied with when implementing the scheme in practice.
- (16) Consequently, it has initiated the procedure in accordance with Article 88(2) of the Treaty.

III. Possible economic impact of the charge

- (17) Based on the Productschap's data, the proposed charge turns out to have the following economic effects:

Cut flowers and pot plants 1998

(NLG × 1 000)

Country	Imports	Revenue following introduction of the para-fiscal charge
France	29 300	274
Belgium	79 600	745
Germany	34 500	322
Italy	9 600	90
United Kingdom	7 800	73
Ireland	4 000	37
Denmark	10 800	101
Greece	1 700	16
Portugal	2 100	20
Spain	103 800	970
Austria	600	6
Finland	200	2
Sweden	400	3
TOTAL	284 400	2 659

- (18) The estimated and actual costs in respect of promotional activities financed from para-fiscal charges levied solely on Dutch growers' products are:

(NLG)

Year	Estimate	Actual costs
1993	26 045 000	25 550 002
1994	26 880 000	26 907 924
1995	27 710 000	
1996	28 250 000	

- (19) The charge percentage amounted to 0.8 % (1995), 0.95 % (1996), 1.05 % (1997) and 1.15 % (1998).
- (20) The economic effects are also apparent when Dutch bulb exports are compared.

Dutch bulb exports (Eurostat data)

Value

(EUR 1 000)

	1994	1995	1996
within the Community	275 717	286 589	293 790
outside the Community	310 533	279 217	253 598

Source: Eurostat.

Quantity

(tonnes)

	1994	1995	1996
within the Community	85 848	88 482	93 726
outside the Community	84 430	65 954	65 674

Source: Eurostat.

IV. Comments by the other Member States and interested parties

4.1 Belgium

- (21) The Belgian authorities submitted their comments on the Dutch Government's proposed measures by letter of 22 August 1997.
- (22) They disputed that products imported from other Member States were now exempt from the parafiscal charge.
- (23) The Belgian authorities also wondered what the difference was with the current situation. In their view, it was not clear whether the charge applied to auctions or to all imported products. The measure's scope (products subject to the charge) also seemed rather vague.
- (24) There was no guarantee whatsoever that revenue from the charge would be used to promote the products on which it was levied (for example, if a certain percentage of the charge applied to pot plants, then the same percentage of the resulting revenue should be spent on promoting pot plants). Moreover, revenue from the charge on Belgian products should also be distributed according to the products' regional origin.
- (25) As regards partner organisations being representative, the Belgian authorities pointed out that promotion was a regional matter in Belgium. Since the charges were levied on the production sector, it should be involved in the promotional activities in consultation and cooperation with the sales sector.
- (26) By letter of 18 January 1999, the Belgian authorities withdrew their reservations. They no longer needed to be taken into account, because a cooperation agreement had been concluded between the Productschap and

VLAM (the organisation responsible for promoting the sale of agricultural products in the Flemish Region).

4.2 United Kingdom

- (27) The United Kingdom authorities submitted their comments by letter of 29 August 1997.
- (28) According to the United Kingdom, there was a representation problem. The Productschap worked mainly with two British organisations, neither of which were at all representative of most producers and traders. Consequently, there was a risk that certain traders would have to pay the charge without being represented.
- (29) There was a threat of discrimination against products from Member States not taking part in the scheme.
- (30) Moreover, producers and traders from other Member States would not necessarily derive equal benefit from the Productschap's sales promotion. Nor was it clear what would happen to revenue not used for promotion. Rules should be introduced in order to ensure that the charges received were channelled back.
- (31) Lastly, a number of practical aspects could give rise to problems. The Productschap should of course ensure that the origin of imported products was precisely determined. If it failed to do so, there was a risk that an unfair system of permanent parafiscal charges would develop.
- (32) The British authorities therefore took the view that the Dutch proposal ran counter to the interests of producers in other Member States. They opposed the charge on imported products.

- (33) By letter of 5 January 1999, the Flowers and Plants Association submitted its comments in favour of the system proposed by the Productschap. The association claimed to represent all major British exporters of narcissi. The scheme proposed by the Productschap would enable the association to carry out generic promotional campaigns.

4.3 Denmark

- (34) The Danish authorities submitted their comments by letter of 3 September 1997.
- (35) Quite apart from anything else, the administrative difficulties involved in collecting parafiscal charges on products imported from other Member States had to be regarded as impeding smooth operation of the internal market. Moreover, approval of the Dutch scheme could create a precedent for other Member States.
- (36) The voluntary nature of the scheme was insufficient justification for a change in Commission practice with regard to parafiscal charges on imported products.
- (37) The proposed scheme would also result in a double charge on Danish products which were exported to the Netherlands and which were already taxed in Denmark.

4.4 Sweden

- (38) The Swedish authorities submitted their comments by letter of 23 September 1997.
- (39) Although the charges were voluntary and were channelled back to the exporting country, the scheme hampered trade within the internal market and entailed extra administrative costs. The parafiscal charge could also result in certain producers no longer selling their products on the Dutch market, and this would benefit Dutch producers.
- (40) Since domestic charges were already levied in a number of countries, the scheme would result in double taxation.
- (41) A voluntary charge could be collected — either indirectly via a representative organisation, or directly — only if all producers and traders agreed to it.
- (42) The Swedish authorities doubted whether market operators from the other Member States would derive as much benefit from the scheme as those in the Netherlands.
- (43) The Trädgårdsnäringens Riksförbund (Swedish horticultural producers' association) and the Blomstergrossisternas Riksförbund (Swedish flower wholesalers' association) submitted their comments by letter of 22 December 1998.
- (44) In its reply to the Commission, the Swedish Government had drawn attention to the legal and competition aspects. According to the two associations, in doing so it had taken little account of the Swedish representative organisations' much more favourable assessment. The Swedish associations fully supported the Dutch

proposal. Most European countries benefited from Dutch promotional activities. In the light of the Community's efforts to boost flower and plant sales and to compensate Community producers for the liberalisation of imports from third countries under the special programme to promote sales, the Dutch promotion plan could also play an important role. The plan could even provide a basis for the Community programme.

- (45) The voluntary nature of the system would constitute another aspect which would have to be taken into account.

V. The Netherlands' comments

- (46) By letter of 22 June 1998 (which referred to the Productschap's comments contained in a letter of 30 January 1998 annexed to the Dutch authorities' letter) the Dutch authorities reacted as follows:

5.1 With regard to Belgium's comments

- (47) In accordance with the Productschap's rules, since 1 January 1996 the charge had no longer been applied to products from other Member States. If auctions had still applied charges after that date for technical reasons, those charges would be reimbursed.
- (48) Not only sales at auctions would be taxed, but also trade around auctions. The system would be the same as the one applying before 1999. The charge would apply only to floricultural products. Specific rules applied to floricultural products and flower bulbs.
- (49) A distinction was already being made between pot plants and other floricultural products. Consideration should therefore be given to allocating the revenue to each group of products taxed. Division of the revenue originating in Belgium from the charge would depend on the representative organisations.
- (50) The proposed scheme benefited the whole floricultural sector (producers and traders alike).

5.2 With regard to the United Kingdom's comments

- (51) First a national organisation was selected. If that turned out to be impossible, then the Productschap tried to work with organisations which represented a large part of the sectors concerned. To that end, discussions were held with other organisations (such as the National Farmers' Union). For as long as there was no grouping of representative organisations, the Productschap proposed to continue to work with the two British organisations with which it was currently working. According to the Productschap, the promotional activities benefited the whole sector and so the problem of taxation without representation had to be seen in perspective.
- (52) It was pointed out that only three Member States had not yet signed the contract. Those three accounted for less than 1 % of the total amount collected.

- (53) Consideration might be given to reimbursing Member States revenue not used for promotion. Such a solution however did not seem really necessary in view of the contracts already concluded.
- (54) The Productschap regarded itself as able to determine imported products' origin with a considerable degree of certainty. An annual discussion would take place with the Member States' relevant authorities in order to determine the amounts due to each country.

5.3 With regard to Denmark's comments

- (55) According to the Productschap, there would be no double charge because the charges collected in the Netherlands were channelled back to Denmark.

5.4 With regard to Sweden's comments

- (56) In the Productschap's opinion, Dutch market operators were not placed at an advantage.
- (57) According to the Productschap, there would be no double charge because the charges collected in the Netherlands were reimbursed to Sweden.

VI. Assessment of the aid measure

- (58) The doubts which led the Commission to initiate the procedure under Article 88(2) of the Treaty still remain.

6.1 Extent to which the partner organisations are representative

- (59) Entirely voluntary contributions from the floricultural sector which are intended to finance promotional activities are not to be regarded as State aid within the meaning of Article 87(1), since 'aid granted by a Member State or through State resources in any form whatsoever' is not involved. This is not so in the present case. In order to guarantee that the charge is applied on the basis of a voluntary contract, the agreement of all ornamental plant producers and traders in the Member State concerned is required. The organisations with which contracts are concluded should therefore represent all the Member State's producers and traders, which is not so in the case of the proposed Dutch scheme. A charge ordinance provides the legal basis which will allow the Productschap to levy a charge on imported products. Based on the Court of Justice's case div. law ⁽⁷⁾, the Commission has always held that revenue from a contribution which the government makes mandatory must be regarded as State resources within the meaning of Article 87(1). Consequently, State aid within the meaning of Article 87(1) is definitely involved. A para-

iscal charge which is levied on imports is incompatible with the common market because it may adversely affect trade between Member States.

- (60) At the meeting on 23 November 1998 the Productschap's representatives pointed out the similarity to the scheme introduced by Council Regulation (EC) No 2275/96 of 22 November 1996 introducing specific measures for live plants and floricultural products ⁽⁸⁾ and Commission Regulation (EC) No 803/98 of 16 April 1998 laying down detailed rules for 1998 for the application of Council Regulation (EC) No 2275/96 introducing specific measures for live plants and floricultural products ⁽⁹⁾.

In this connection, it should be pointed out that programmes to increase the consumption of live plants and floricultural products are to be presented by representative groups of operators in one or more branches of activity in the live plant and floricultural products sector (Article 4 of Regulation (EC) No 803/98).

The partner organisations with which the Productschap has concluded contracts are the same as those which operate within that European framework. The Productschap therefore assumes that the European authorities have established that the partner organisations are representative and have accepted them as such.

- (61) This argument cannot be accepted, however. There is a clear distinction between organisations which are designated to administer European budgets on the basis of a Council regulation and under the supervision of the Member States and the Commission, and the same organisations which — in most cases without a legal basis in their national legislation — would be designated by the Productschap to attend both to the charge on firms which may or may not be members of those organisations and to flower and plant promotion financed out of the revenue from such a charge. A Community legal instrument (particularly a regulation) which introduces horizontal approximation through common criteria and seeks a degree of harmonisation in the public interest does not necessarily justify a Member State introducing tax obstacles at its own instigation. There is also the risk that the charge will be applied without representation.

- (62) Moreover, the fact that promotional activities in other Member States are to be carried out in consultation with the Productschap gives the Productschap a certain say, while other Member States' organisations do not enjoy such control over promotional activities carried out in the Netherlands. This imbalance gives grounds for suspecting that the measure is geared to Dutch operators.

6.2 Allocation of the rechannelled funds

- (63) It is not clear whether producers and traders in each of the other Member States would be able to derive as much benefit from the promotional support measures applied by the partner organisations there as would Dutch producers and traders from the measures applied by the Productschap.

⁽⁷⁾ Judgment in Case 78/76, *Steinike & Weinlig v Germany*, ECR 1977, p. 595.

⁽⁸⁾ OJ L 308, 29.11.1996, p. 7.

⁽⁹⁾ OJ L 115, 17.4.1998, p. 5.

The Court of Justice has consistently ruled ⁽¹⁰⁾ that if the advantages stemming from the use of the proceeds of the charge in question fully offset the burden borne by the domestic product when it is placed on the market, that charge constitutes a charge having an effect equivalent to customs duties, contrary to Articles 23 and 25. If those advantages only partly offset the burden borne by domestic products, the charge in question is subject to Article 90 of the Treaty. In the latter case, the charge would be incompatible with Article 90 and is therefore prohibited to the extent to which it discriminates against imported products, that is to say to the extent to which it substantially offsets the burden borne by the taxed domestic product compared with the imported product.

In the present case, it has not been established that there is no discrimination against imported products, or that the para-fiscal charges and the resulting revenue do not contravene Article 90 of the Treaty. The essential question is whether imported products really can benefit from the aid scheme in the same way as domestic products: even if the rules guarantee equal treatment for domestic and imported products, conditions in practice inevitably favour domestic operators because promotional activities are undertaken in response to domestic specialisations, requirements and market opportunities (seasonal fluctuations and changes in the varieties grown). Even assuming that imported products really are able to benefit from the aid scheme in the same way as domestic products, in practice there is no mechanism whereby the Commission can actually verify whether products from the other 14 Member States are benefiting from the aid in the same way as domestic products — particularly since the Dutch authorities have failed to state the identification system which would be used to determine the origin of imported products (see recital 31 above), apart from a vague assurance from the Productschap that it regards itself as able to determine the origin (see recital 54 above).

- (64) Moreover, the purpose of Articles 87 and 88 differs from that of Article 90. The fact that a national measure meets the requirements of Article 90 does not necessarily mean that it complies with other provisions such as Articles 87 and 88. Where an aid measure is financed from a charge on certain firms or products, the Commission is required to examine not only whether the method of financing complies with Article 90 of the Treaty but also whether that method and the aid so funded are compatible with Articles 87 and 88 ⁽¹¹⁾.

⁽¹⁰⁾ See particularly the judgments in Joined Case C-78 to C-83/90, *Compagnie Commerciale de l'Ouest and others v Receveur Principal des Douanes de la Pallice Port* ECR 1992, p. I-1847, paragraph 27, and Case C-17/91, *Georges Lormoy en Zanen NV and others v Belgian State*, ECR 1992, p. I-6523, paragraph 21.

⁽¹¹⁾ Judgment in Case 47/69, already referred to in footnote 6; see also judgments in Cases C-266/91, *Celulose Beira GmbH v Fazenda Pública*, ECR 1993, p. I-4337, and C-72/92 *Firma Herbert Scharbatke GmbH v Federal Republic of Germany*, ECR 1993, p. I-5509.

In so far as the charges are not voluntary (which is the case, as set out at recital 59) and are channelled back to the exporting country, there is a risk that the proposed scheme will hamper trade within the single market and will entail additional administrative costs.

The proposed scheme seems primarily designed to restore the competitive position of Dutch products which are themselves affected by the para-fiscal charges. Imported products, which would have become more competitive because only domestic products are taxed, lose that advantage when they are likewise taxed. Spending the revenue from the charge for promoting imported products does not necessarily offset the loss of that competitive advantage, since equal treatment is not assured in practice (see point recital 63 above).

The proposed scheme threatens to distort free competition. The aid's adverse effect on trade between Member States may be exacerbated by the method through which the aid is financed, since that method likewise imposes a burden on imported products.

- (65) It should be added that operators in other Member States often bear the burden of granting aid to finance comparable promotional activities. When producers in other Member States export to countries which levy an import charge, they are financing the same activity twice over.

In view of this, the Dutch authorities have stated that they are prepared to reintroduce a scheme such as that which used to exist between Germany and the Netherlands, whereby operators were exempted from the charge if they were able to demonstrate that they had already paid a similar charge in the other country.

However, such a formality (submitting documents in order to obtain exemption from the charge) could be regarded as a measure having equivalent effect and therefore be prohibited under Article 28 of the Treaty — i.e. 'all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade' ⁽¹²⁾. Formalities (even those entailing no more than the submission of documents) which are presumably accompanied by a control system are capable of hindering intra-Community trade. Furthermore, such border controls are justified only in a limited number of special cases ⁽¹³⁾.

- (66) Moreover, the revenue from the para-fiscal charges may turn out to be insufficient to launch a promotion campaign. In that event, there are no corrective measures to provide equitable compensation for producers and traders in other Member States and there is nothing to prevent the partner organisation from retaining the money.

⁽¹²⁾ Judgment in Case 8/74, *Dassonville*, ECR 1974, p. 837.

⁽¹³⁾ Judgment in Case 159/78, *Commission v Italy*, ECR 1979, p. 3247.

VII. Conclusion

(67) In the light of the above, the Commission considers that there are insufficient grounds for departing from its usual practice with regard to State aid financed from parafiscal charges which are also levied on imported products, namely that the scheme must be based on voluntary agreement by operators or representative partner organisations in the Member States concerned and that the resulting revenue must be channelled back to those Member States.

The Commission therefore takes the view that the aid measure in question, which is financed from parafiscal charges which also apply to products imported from other Member States, is incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The aid which the Netherlands intends to grant for promoting ornamental plants and which is financed from a parafiscal charge on products imported from other Member States is

incompatible with the common market. The aid scheme must therefore not be implemented.

Article 2

The Netherlands shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 20 July 1999.

For the Commission

Franz FISCHLER

Member of the Commission

CORRIGENDA**Corrigendum to Commission Recommendation 1999/829/Euratom of 6 December 1999 on the application of Article 37 of the Euratom Treaty**

(Official Journal of the European Communities L 324 of 16 December 1999)

On page 25, point 4.1.(a) should read as follows:

‘4.1.(a) If a Member State envisages modifying a plan for the disposal of radioactive waste, on which an opinion has already been given under the terms of Article 37, a submission of general data containing at least the information set out in a standard form in Annex 4 is necessary if the authorised limits or associated requirements for the disposal of radioactive waste are less restrictive than in the existing plan or if the potential consequences of the reference accident(s) evaluated in the licensing procedure are increased.’
