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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 79/2001
of 16 January 2001
establishing the standard import values for determining the entry price of certain fruit and
vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 17 January 2001.

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

Done at Brussels, 16 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 16 January 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	101,3
	204	42,6
	624	165,6
	999	103,2
0707 00 05	052	101,1
	624	208,9
	628	142,5
	999	150,8
0709 90 70	052	102,5
	204	107,0
	999	104,8
0805 10 10, 0805 10 30, 0805 10 50	052	47,7
	204	52,2
	212	48,4
	220	41,9
	999	47,6
0805 20 10	052	47,4
	204	90,0
	624	63,6
	999	67,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	66,7
	204	78,5
	624	75,9
	999	73,7
0805 30 10	052	56,4
	600	66,6
	999	61,5
0808 10 20, 0808 10 50, 0808 10 90	039	83,3
	060	38,4
	400	85,3
	404	83,4
	720	121,4
	728	73,8
	999	80,9
0808 20 50	052	189,0
	400	89,0
	720	57,9
	999	112,0

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

COMMISSION REGULATION (EC) No 80/2001**of 16 January 2001****laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards notifications concerning recognition of producer organisations, the fixing of prices and intervention within the scope of the common organisation of the market in fishery and aquaculture products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

CHAPTER I

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 34(2) thereof,

Notifications regarding recognition of producer organisations and associations thereof

Whereas:

Article 1

(1) In accordance with Article 13(6) of Regulation (EC) No 104/2000, the Commission publishes annually a list of recognised producer organisations and associations thereof. Member States must therefore provide it with adequate information.

Member States shall notify the Commission of the information referred to in Articles 6(1)(c) and 13(3)(d) of Regulation (EC) No 104/2000 within two months of the date of the adopted decision at the latest.

(2) The Commission has to be able to monitor the price stabilisation activities of the producer organisations and the way in which they apply the systems of financial compensation and carry-over premiums.

This information and the format in which it is to be sent shall be as set out in Annex I to this Regulation.

(3) The Community intervention arrangements pursuant to Articles 21 to 26 of Regulation (EC) No 104/2000 require information to be available on the prices recorded in clearly defined regions at regular intervals.

CHAPTER II**Prices and intervention**

(4) A system of electronic transmission of data between the Member States and the Commission has been introduced within the framework of management of the common fisheries policy (FIDES II system). It should be used for the purposes of collecting the information referred to in this Regulation.

Article 2

Member States shall notify to the Commission, no later than two months after the beginning of each fishing year, the information referred to in Article 17(4) of Regulation (EC) No 104/2000.

(5) The data formerly collected under Commission Regulation (EEC) No 2210/93 of 26 July 1993 on the communication of information for the purposes of the common organisation of the market in fishery and aquaculture products ⁽²⁾, as amended by Regulation (EC) No 843/95 ⁽³⁾, should therefore be simplified, harmonised and supplemented. A new Regulation should therefore be drawn up and Regulation (EEC) No 2210/93 should be repealed.

Member States shall notify the Commission immediately of any change in the details referred to in the first paragraph.

This information and the format in which it is to be sent shall be as set out in Annex II to this Regulation.

Article 3

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

For the species listed in Annexes I and IV to Regulation (EC) No 104/2000, Member States shall notify the Commission of the quantities landed, sold, withdrawn and carried over throughout their territory, together with the value of the quantities sold, in each quarter in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than seven weeks after the quarter in question.

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 197, 6.8.1993, p. 8.

⁽³⁾ OJ L 85, 19.4.1995, p. 13.

Where there is a crisis for one or more species listed in Annex I to Regulation (EC) No 104/2000, Member States shall notify the Commission of the quantities landed, sold, withdrawn and carried over throughout their territory, together with the value of the quantities sold, in each fortnight in the various regions defined in Table 1 of the Annex VIII to this Regulation, no later than two weeks after the fortnight in question.

This information and the format in which it is to be sent shall be as set out in Annex III to this Regulation.

Article 4

Member States shall notify the Commission every quarter, for each product listed in Annex I to Regulation (EC) No 104/2000 that has been withdrawn, of the value and the quantities disposed of, broken down by the disposal options laid down in Article 1 of Commission Regulation (EEC) No 1501/83 ⁽¹⁾, no later than eight weeks after the quarter in question.

This information and the format in which it is to be sent shall be as set out in Annex IV to this Regulation.

Article 5

Member States shall notify the Commission, for each product listed in Annex II to Regulation (EC) No 104/2000, of the quantities landed, sold, and stored, together with the value of the quantities sold, in each quarter in the various regions defined in Table 1 of the Annex VIII to this Regulation, no later than six weeks after the quarter in question.

This information and the format in which it is to be sent shall be as set out in Annex V to this Regulation.

Article 6

Member States shall notify the Commission, for each product listed in Annex III to Regulation (EC) No 104/2000, of the quantities landed, sold, and delivered to industry by producer

organisation, together with the value of the quantities delivered to industry, in each month in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than six weeks after the month in question.

This information and the format in which it is to be sent shall be as set out in Annex VI to this Regulation.

Article 7

Member States shall provide the Commission each year, within three months of the end of the year in question, with information to enable the technical costs relating to the operations required for stabilisation and storage provided for in Articles 23 and 25 of Regulation (EC) No 104/2000 to be determined.

This information and the format in which it is to be sent shall be as set out in Annex VII to this Regulation.

CHAPTER III

General and final provisions

Article 8

Member States shall send the information to the Commission by electronic means, using the transmission systems currently used for data exchange within the framework of management of the common fisheries policy (FIDES II system).

Article 9

Regulation (EEC) No 2210/93 is hereby repealed.

Article 10

This Regulation shall enter into force on 1 January 2001.

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

Done at Brussels, 16 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 152, 10.6.1983, p. 22.

ANNEX I

Information on producer organisations and associations thereof

Registration No	Field name	Type	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-PO
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Date sent	<DSE>	YYYYMMDD	8	
4	Type of message	<TYP>	Text	3	INS = new MOD = amendment DEL = recognition withdrawn
5	No of PO or PO association	<NOP>	Text	7	Only for message type 'MOD' or 'DEL'
6	Name	<NOM>	Text		
7	Official abbreviation	<ABB>			where available
8	National No	<NID>			where available
9	Area of competence	<ARE>	Text		
10	Activity	<ACT>	Text	6	Tab. 10
11	Date set up	<DCE>	YYYYMMDD		
12	Date consitution drawn up	<DST>	YYYYMMDD		
13	Date recognition granted	<DRE>	YYYYMMDD		
14	Date recognition withdrawn	<DRA>	YYYYMMDD		Only for message type 'DEL'
15	Address 1	<ADR1>	Text		
16	Address 2	<ADR2>	Text		
17	Address 3	<ADR3>			
18	Postcode	<CPO>	Text		
19	Place	<LOC>	Text		
20	Telephone No 1	<TEL1>	Text		+ nn(nn)nnn.nnn.nnn
21	Telephone No 2	<TEL2>	Text		+ nn(nn)nnn.nnn.nnn
22	Fax No	<FAX>	Text		+ nn(nn)nnn.nnn.nnn
23	E-mail	<MEL>	Text		
24	Address of website	<WEB>	Text		
25 et seq.	No of member PO	<ADH>	Text		For PO associations, list of member POs

ANNEX II

Withdrawal prices applied by producer organisations

Send two months after the beginning of the fishing year

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-PO-WP
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Y	1	Y = annual
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	PO identification code	<DAT>	Text	7	CCC-999
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Withdrawal price		Whole number		In accordance with currency indicated in registration No 8, per 1 000 kg
	Region where withdrawal price adjusted by a regional coefficient		Text		Tab. 8

ANNEX III

Products in Annex I and IV to Council Regulation (EC) No 104/2000

Quarterly notification

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-FRESH
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q or C	1	Q = quarter C = crisis
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1-4 for quarter 1-24 for fortnight YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Region of landing (NUTS code)	<DAT>	Text	7	Tab. 1
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Value of quantities sold		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold		Whole number		kg
	Quantities withdrawn at Community price		Whole number		kg
	Quantities withdrawn at autonomous price		Whole number		kg
	Quantities carried over		Whole number		kg

ANNEX IV

Products in Annex I to Regulation (EC) No 104/2000

Use of products withdrawn from the market

Quarterly notification

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-STD-VAL
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q	1	Q = quarter
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1-4 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Species code	<DAT>	Text	3	Tab. 7
	Destination code		Text	6	Tab. 9
	Value of quantities sold or transferred		Whole number		In accordance with currency indicated in registration No 8 '0' permitted for quantities transferred
	Quantities sold or transferred		Whole number		kg

ANNEX V

Products in Annex II to Regulation (EC) No 104/2000 (Quarterly notification)

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-FROZEN
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q	1	Q = quarter
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1 – 4 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Region of landing (NUTS code)	<DAT>	Text	7	Tab. 1
	Species code	<DAT>	Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Value of quantities sold		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold before storage		Whole number		kg
	Quantities placed in storage		Whole number		kg
	Quantities removed from storage		Whole number		kg

ANNEX VI

Products in Annex III to Regulation (EC) No 104/2000

Frequency: monthly

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-TUNA
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	M	1	M = monthly
7	Identification of period	<IDP>	PPP/YYYY	7	PPP = sequence 1-12 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Producer organisation	<DAT>	Text	7	CCC-999
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Size code		Text	3	Tab. 2
	Value of quantities sold and delivered to industry		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold and delivered to industry		Whole number		kg

ANNEX VII

Products in Annexes I and II to Regulation (EC) No 104/2000

Frequency: annual

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-TECH
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Y	1	Y = annual
7	Identification of period	<IDP>	PPP/YYYY	7	PPP = 1 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Product code	<DAT>	Text	3	1AB = Annex I product, AB 1C = Annex I product, C 2 = Annex II product
	Technical costs code		Text	2	Tab. 11
	Labour costs		Whole number		In accordance with currency indicated in registration No 8
	Energy costs		Whole number		In accordance with currency indicated in registration No 8
	Transport costs		Whole number		In accordance with currency indicated in registration No 8
	Other costs (packaging, marine, direct wrapping, etc.)		Whole number		In accordance with currency indicated in registration No 8

ANNEX VIII

TABLE 1

NUTS codes 'ISO-A3'	Country	NUTS name
BEL	Belgique-België	
BE1		Région de Bruxelles-Capitale/Brussels Hoofdstedelijk Gewest
BE21		Antwerpen
BE22		Limburg
BE23		Oost-Vlaanderen
BE24		Vlaams-Brabant
BE25		West-Vlaanderen
BE31		Brabant Wallon
BE32		Hainaut
BE33		Liège
BE34		Luxembourg
BE35		Namur
DNK	Danmark	
DK001		Københavns Kommune og Frederiksberg Kommune
DK002		Københavns Amt
DK003		Frederiksborg Amt
DK004		Roskilde Amt
DK005		Vestsjællands Amt
DK006		Storstrøms Amt
DK007		Bornholms Amt
DK008		Fyns Amt
DK009		Sønderjyllands Amt
DK00A		Ribe Amt
DK00B		Vejle Amt
DK00C		Ringkøbing Amt
DK00D		Århus Amt
DK00E		Viborg Amt
DK00F		Nordjyllands Amt
DEU	Deutschland	
DE11		Stuttgart
DE12		Karlsruhe
DE13		Freiburg
DE14		Tübingen
DE21		Oberbayern
DE22		Niederbayern
DE23		Oberpfalz
DE24		Oberfranken
DE25		Mittelfranken
DE26		Unterfranken
DE27		Schwaben
DE3		Berlin
DE4		Brandenburg
DE5		Bremen
DE6		Hamburg
DE71		Darmstadt

NUTS codes 'ISO-A3'	Country	NUTS name
DE72		Gießen
DE73		Kassel
DE8		Mecklenburg-Vorpommern
DE91		Braunschweig
DE92		Hannover
DE93		Lüneburg
DE94		Weser-Ems
DEA1		Düsseldorf
DEA2		Köln
DEA3		Münster
DEA4		Detmold
DEA5		Arnsberg
DEB1		Koblenz
DEB2		Trier
DEB3		Rheinhessen-Pfalz
DEC		Saarland
DED1		Chemnitz
DED2		Dresden
DED3		Leipzig
DEE1		Dessau
DEE2		Halle
DEE3		Magdeburg
DEF	Ellada	Schleswig-Holstein
DEG		Thüringen
GRC		
GR11		Anatoliki Makedonia, Thraki
GR12		Kentriki Makedonia
GR13		Dytiki Makedonia
GR14		Thessalia
GR21		Ipeiros
GR22		Ionia Nisia
GR23		Dytiki Ellada
GR24		Stereia Ellada
GR25		Peloponnisos
GR3		Attiki
GR41		Voreio Aigaio
GR42		Notio Aigaio
GR43		Kriti
ESP	España	
ES11		Galicia
ES12		Asturias
ES13		Cantabria
ES21		País Vasco
ES22		Navarra
ES23		La Rioja
ES24		Aragón
ES3		Madrid
ES41		Castilla-León
ES42		Castilla-La Mancha

NUTS codes 'ISO-A3'	Country	NUTS name
ES43	France	Extremadura
ES51		Cataluña
ES52		Comunidad Valenciana
ES53		Baleares
ES61		Andalucía
ES62		Murcia
ES63		Ceuta y Melilla
ES7		Canarias
FRA		
FR1		Île-de-France
FR21		Champagne-Ardenne
FR22		Picardie
FR23		Haute-Normandie
FR24		Centre
FR25		Basse-Normandie
FR26		Bourgogne
FR3		Nord-Pas-de-Calais
FR41		Lorraine
FR42		Alsace
FR43		Franche-Comté
FR51		Pays-de-la-Loire
FR521		Côtes-d'Armor
FR522		Finistère
FR523		Ille-et-Vilaine
FR524		Morbihan
FR53		Poitou-Charentes
FR61		Aquitaine
FR62		Midi-Pyrénées
FR63		Limousin
FR71		Rhône-Alpes
FR72		Auvergne
FR81		Languedoc-Roussillon
FR82		Provence-Alpes-Côte d'Azur
FR83		Corse
FR91		Guadeloupe
FR92		Martinique
FR93		Guyane
FR94		Réunion
IRL	Ireland	
IE011		Border
IE012		Midland
IE013		West
IE021		Dublin
IE022		Mid-east
IE023		Mid-west
IE024		South-east (IRL)
IE025		South-west (IRL)

NUTS codes 'ISO-A3'	Country	NUTS name
ITA	Italia	
IT11		Piemonte
IT12		Valle d'Aosta
IT13		Liguria
IT2		Lombardia
IT31		Trentino-Alto Adige
IT32		Veneto
IT33		Friuli-Venezia Giulia
IT4		Emilia-Romagna
IT51		Toscana
IT52		Umbria
IT53		Marche
IT6		Lazio
IT71		Abruzzo
IT72		Molise
IT8		Campania
IT91		Puglia
IT92		Basilicata
IT93		Calabria
ITA		Sicilia
ITB		Sardegna
LUX	Luxembourg (Grand-Duché)	Luxembourg (Grand-Duché)
NL11	Nederland	Groningen
NL12		Friesland
NL13		Drenthe
NL21		Overijssel
NL22		Gelderland
NL23		Flevoland
NL31		Utrecht
NL32		Noord-Holland
NL33		Zuid-Holland
NL34		Zeeland
NL41		Noord-Brabant
NL42		Limburg
AUT	Österreich	
AT11		Burgenland
AT12		Niederösterreich
AT13		Wien
AT21		Kärnten
AT22		Steiermark
AT31		Oberösterreich
AT32		Salzburg
AT33		Tirol
AT34		Vorarlberg
PRT	Portugal	
PT11		Norte
PT12		Centro (P)
PT13		Lisboa e Vale do Tejo
PT14		Alentejo

NUTS codes 'ISO-A3'	Country	NUTS name
PT15	Suomi/Finland	Algarve
PT2		Açores
PT3		Madeira
SWE		
FI13		Itä-Suomi
FI14		Väli-Suomi
FI15		Pohjois-Suomi
FI16		Uusimaa (Suuralue)
FI17		Etelä-Suomi
FI2		Åland
SWE	Sverige	
SE01		Stockholm
SE02		Östra Mellansverige
SE04		Sydsverige
SE06		Norra Mellansverige
SE07		Mellersta Norrland
SE08		Övre Norrland
SE09		Småland med Öarna
SE0A		Västsverige
GBR	United Kingdom	
UKC1		Tees Valley and Durham
UKC2		Northumberland and Tyne and Wear
UKD1		Cumbria
UKD2		Cheshire
UKD3		Greater Manchester
UKD4		Lancashire
UKD5		Merseyside
UKE1		East Riding and North Lincolnshire
UKE2		North Yorkshire
UKE3		South Yorkshire
UKE4		West Yorkshire
UKF1		Derbyshire and Nottinghamshire
UKF2		Leicestershire, Rutland and Northamptonshire
UKF3		Lincolnshire
UKG1		Herefordshire, Worcestershire and Warwickshire
UKG2		Shropshire and Staffordshire
UKG3		West Midlands
UKH1		East Anglia
UKH2		Bedfordshire, Hertfordshire
UKH3		Essex
UKI1		Inner London
UKI2		Outer London
UKJ1		Berkshire, Buckinghamshire and Oxfordshire
UKJ2		Surrey, East and West Sussex
UKJ3		Hampshire and Isle of Wight
UKJ4		Kent

NUTS codes 'ISO-A3'	Country	NUTS name
UKK1		Gloucestershire, Wiltshire and North Somerset
UKK2		Dorset and Somerset
UKK3		Cornwall and Isles of Scilly
UKK4		Devon
UKL1		West Wales and the Valleys
UKL2		East Wales
UKM1101		Aberdeen City
UKM1102		Aberdeenshire
UKM1103		North-East Moray
UKM2		Eastern Scotland
UKM3		South-Western Scotland
UKM41		Caithness and Sutherland and Ross and Cromarty
UKM42		Inverness and Nairn and Moray, Badenoch and Strathspey
UKM43		Lochaber, Skye and Lochalsh and Argyll and the Islands
UKM44		Comhairle Nan Eilan (Western Isles)
UKM45		Orkney Islands
UKM46		Shetland Islands
UKM2		Eastern Scotland
UKM3		South-Western Scotland
UKM4		Highlands and Islands
UKN		Northern Ireland

TABLE 2

Size codes

Code	Name
1	Size 1
2	Size 2
3	Size 3
4	Size 4
5	Size 5
6	Size 6
M10	≤ 10 kg
P10	> 10 kg
M4	≤ 4 kg
M1	≤ 1,1 kg
50	> 1,8 kg
51	≤ 1,8 kg
SO	Not applicable
M11	< 1,1 kg
M13	< 1,33 kg
B21	≥ 1,1 kg < 2,1 kg
B27	≥ 1,33 kg < 2,7 kg
P21	≥ 2,1 kg
P27	≥ 2,7 kg

TABLE 3**Presentation codes**

Code	Presentation
1	Whole
12	Head off
3	Gutted with head
31	Gutted and gilled
32	Gutted and headed
61	Cleaned
25	Side
2	Fillet
62	Cylinder
63	Tubes
21	Standard fillet, with bones
22	Boneless fillets
23	Fillets, with skin
24	Fillets, without skin
51	Minced blocks
5	Pieces and other flesh
11	With or without head
9	Acceptable presentations other than whole or gutted with gills
26	Fillets in minced blocks < 4 kg
70	Cleaned, with head OR whole
71	All acceptable presentations for this species
72	All acceptable presentations other than fillets, pieces and other flesh
6	Cleaned, cylinders, tubes
7	Other presentations
SO	Not applicable

TABLE 4**Preservation codes**

Code	Preservation
SO	Not applicable
V	Live
C	Frozen
CU	Cooked in water
S	Salted
FC	Fresh or frozen
FR	Fresh or chilled
PRE	Preparation
CSR	Canned fish
F	Fresh
R	Chilled

TABLE 5

Freshness codes

Code	Freshness
E	Extra
A	A
B	B
V	Live
SO	Not applicable

TABLE 6

Currency codes

Code	Currency
BEF	Belgian franc
DKK	Danish krone
DEM	German mark
GRD	Greek drachma
EUR	Euro
PTE	Portuguese escudo
FRF	French franc
FIM	Finnish markka
NLG	Dutch guilder
IEP	Irish pound (punt)
ITL	Italian lira
ATS	Austrian schilling
ESP	Spanish peseta
SEK	Swedish krona
GBP	Pound sterling
LUF	Luxembourg franc

TABLE 7

Code	Species
ALB	<i>Thunnus alalunga</i>
ALK	<i>Theragra chalcogramma</i>
BFT	<i>Thunnus thynnus</i>
BIB	<i>Trisopterus luscus</i>
BOG	<i>Boops boops</i>
BRA	<i>Brama</i> spp.
BRB	<i>Spondyllosoma cantharus</i>
BSF	<i>Aphanopus carbo</i>
CDZ	<i>Gadus</i> spp.
COD	<i>Gadus morhua</i>
COE	<i>Conger conger</i>
CRE	<i>Cancer pagurus</i>

Code	Species
CSH	<i>Crangon crangon</i>
CTC	<i>Sepia officinalis</i>
CTR	<i>Sepiola rondeleti</i>
DAB	<i>Limanda limanda</i>
DEC	<i>Dentex dentex</i>
DGS	<i>Squalus acanthias</i>
DPS	<i>Parapenaeus longirostris</i>
ENR	<i>Engraulis</i> spp.
FLE	<i>Platichthys flesus</i>
GHL	<i>Rheinhardtius hippoglossoides</i>
GRC	<i>Gadus ogac</i>
GUY	<i>Triga</i> spp.
HAD	<i>Melanogrammus aeglefinus</i>
HER	<i>Clupea harengus</i>
HKE	<i>Merluccius merluccius</i>
HKP	<i>Merluccius hubbsi</i>
HKX	<i>Merluccius</i> spp.
ILL	<i>Illex</i> spp.
JAX	<i>Trachurus</i> spp.
LEM	<i>Mircostomus kitt</i>
LEZ	<i>Lepidorhombus</i> spp.
LNZ	<i>Molva</i> spp.
MAC	<i>Scomber scombrus</i>
MAS	<i>Scomber japonicus</i>
MAZ	<i>Scomber scombrus, japonicus, Orcynopsis unicolor</i>
MGS	<i>Mugil</i> spp.
MNZ	<i>Lophius</i> spp.
MUR	<i>Mullus surmuletus</i>
MUT	<i>Mullus barbatus</i>
NEP	<i>Nephrops norvegicus</i>
OCZ	<i>Octopus</i> spp.
PAX	<i>Pagellus</i> spp.
PCO	<i>Gadus macrocephalus</i>
PEN	<i>Penaeus</i> spp.
PIL	<i>Sardina pilchardus</i>
PLE	<i>Pleuronectes platessa</i>
POC	<i>Boreogadus saida</i>
POK	<i>Pollachius virens</i>
POL	<i>Pollachius pollachius</i>
PRA	<i>Pandalus borealis</i>
RED	<i>Sebastes</i> spp.
ROA	<i>Rossia macrosoma</i>
SCE	<i>Pecten maximus</i>
SCL	<i>Scylliorhinus</i> spp.
SFS	<i>Lepidopus caudatus</i>
SKA	<i>Raja</i> spp.
SKJ	<i>Katsuwonus pelamis</i>
SOO	<i>Solea</i> spp.
SPC	<i>Spicara smaris</i>
SQA	<i>Illex argentinus</i>
SQC	<i>Loligo</i> spp.
SQE	<i>Ommastrephes sagittatus</i>
SQE	<i>Todarodes sagittatus sagittatus</i>

Code	Species
SQI	<i>Illex illecebrosus</i>
SQL	<i>Loligo pealei</i>
SQN	<i>Loligo patagonica</i>
SQO	<i>Loligo opalescens</i>
SQR	<i>Loligo vulgaris</i>
SWO	<i>Xiphias gladius</i>
TUS	<i>Thunnus</i> spp. and <i>Euthynnus</i> spp. excluding <i>Thunnus thunnus</i> and <i>T. obesus</i>
WHB	<i>Micromesistius poutassou</i>
WHE	<i>Buccinum undatum</i>
WHG	<i>Merlangius merlangus</i>
YFT	<i>Thunnus albacares</i>

TABLE 8

Regions where the withdrawal price is adjusted by a regional coefficient

Code	Region	Description of region
MADER	Azores and Madeira	Islands of Azores and Madeira
BALNOR	North Baltic	Baltic Sea north of 59° 30'
CANA	Canaries	Canary Islands
CORN	Cornwall	Coastal regions and islands of the countries of Cornwall and Devon in the United Kingdom
ECOS	Scotland	Coastal regions of north-east Scotland from Wick to Aberdeen
ECOIRL	Scotland and Northern Ireland	Coastal regions from Portpatrick in south-west Scotland to Wick in north-east Scotland, and the islands to the west and north of these regions. Coastal regions and islands of Northern Ireland
ESTECO	Scotland (east)	Coastal regions of Scotland from Portpatrick to Eyemouth, and the islands to the west and north of these regions
ESPATL	Spain (Atlantic)	Atlantic coastal regions of Spain (except the Canary Islands)
ESTANG	Eastern England	Eastern coastal regions of England, from Berwick to Dover. Coastal regions of Scotland from Portpatrick to Eyemouth, and the island to the west and north of these regions. County Down coastal regions
FRAATL	France (Atlantic, Channel, North)	French coastal regions on the Atlantic, English Channel and North Sea
IRL	Ireland	Irish coastal regions and islands
NIRL	Northern Ireland	County Down coastal regions (Northern Ireland)
PRT	Portugal	Portuguese Atlantic coastal regions
UER	Rest of the European Union	European Union with the exception of regions to which a regional coefficient applies
EU	European Union	European Unions as a whole
WECO	Scotland (west)	Coastal regions from Troon (south-west Scotland) to Wick (north-east Scotland) and the islands to the west and north of these regions
BALSUD	Baltic	Baltic Sea south of 59° 30'

TABLE 9**Use of withdrawals**

Code	Use of withdrawals
FMEAL	Dry. Cutting up or processing into meal (animal feed)
OTHER	Use other than dried. Cutting up or processing into meal (animal feed)
NOALIM	Use for purposes other than feed
DIST	Free distribution

TABLE 10**Type of fishing**

Code	Type of fishing
D	Deep-sea fishing
H	High-sea fishing
C	Coastal fishing
L	Local small-scale fishing
O	Other types of fishing
A	Aquaculture

TABLE 11**Type of technical cost**

Code	Type of technical cost
CO	Freezing
ST	Storage
FL	Filleting
SL	Salting — drying
MA	Marinades
CU	Cooking — pasteurisation
VV	Storage in fixed tanks

COMMISSION REGULATION (EC) No 81/2001
of 16 January 2001
on the issuing of import licences for bananas under the tariff quotas and for traditional ACP
bananas for the first quarter of 2001 (second period)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 2362/98 of 28 October 1998 laying down detailed rules for the implementation of Council Regulation (EEC) No 404/93 regarding imports of bananas into the Community ⁽³⁾, as last amended by Regulation (EC) No 1632/2000 ⁽⁴⁾, and in particular Articles 17 and 18(2) thereof,

Whereas:

- (1) Article 2 of, and the Annex to, Commission Regulation (EC) No 2776/2000 ⁽⁵⁾ fix the quantities available for the first quarter of 2001 under the second period for the submission of applications provided for in Article 18 of Regulation (EC) No 2362/98.
- (2) Pursuant to Article 18(2) of Regulation (EC) No 2362/98, on the basis of applications submitted during the second period, the quantities for which licences may be

issued for the origins concerned should be determined forthwith.

- (3) This Regulation should apply immediately to permit licences to be issued as quickly as possible,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences shall be issued under the arrangements for the importation of bananas, tariff quotas arrangements and arrangements for traditional ACP bananas for the first quarter of 2001 (second period) in respect of new applications as referred to in Article 18 of Regulation (EC) No 2362/98:

1. for the quantity indicated in the licence application multiplied, for the origin 'Panama', by the reduction coefficient 0,4702;
2. for the quantity indicated in the licence application for an origin other than that mentioned in point 1.

Article 2

This Regulation shall enter into force on 17 January 2001.

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

Done at Brussels, 16 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 47, 25.2.1993, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 293, 31.10.1998, p. 32.

⁽⁴⁾ OJ L 187, 26.7.2000, p. 27.

⁽⁵⁾ OJ L 321, 19.12.2000, p. 45.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 12 July 2000

on State aid which Italy plans to grant to Fiat Auto SpA for its Mirafiori Carrozzeria plant

(notified under document number C(2000) 2450)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2001/47/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 interested parties to submit their comments in accordance with the abovementioned provisions ⁽¹⁾,

Whereas:

I. PROCEDURE

Between October and December 1997 Italy notified the Commission, pursuant to Article 88(3) of the Treaty, of six proposals to grant State Aid to Fiat Auto SpA, one of which (registered under N 728/97 on 29 October 1997) concerned investments in Fiat Mirafiori Carrozzeria an automobile assembly plant at Mirafiori, Turin. 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 to clarify the various aspects of the examination of the case. Partial replies to the questions raised by the Commission were supplied by the Italian authorities in a letter of 20 November 1998.

The Commission then informed Italy ⁽²⁾ of its decision of 3 February 1999 to initiate the procedure provided for 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.

The decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽³⁾, and interested parties were invited by the Commission to submit comments. No comments were received.

⁽¹⁾ OJ C 120, 1.5.1999 and OJ C 288, 9.10.1999.

⁽²⁾ By letter of 9 March 1999, reference number SG(99)D/1742.

⁽³⁾ OJ C 120, 1.5.1999.

Representatives of the Commission went to Mirafiori on 24 February 1999 to discuss, among other matters, the Mirafiori Carrozzeria plan.

On 9 April 1999 the Italian authorities requested an extension of the deadline for replying and on 16 April they sent a letter to the Commission containing the information they considered necessary to complete its examination of the case.

Further examination of the Mirafiori Carrozzeria case served to strengthen the Commission's initial doubts, particularly as regards the need for the planned aid. The Commission therefore informed Italy ⁽¹⁾ of its Decision of 26 May 1999 to widen the procedure initiated on 3 February, allowing the Italian authorities one month in which to supply 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.

The decision to widen the procedure was published in the *Official Journal of the European Communities* ⁽²⁾, and interested parties were invited by the Commission to submit comments. No comments were received.

II. DETAILED DESCRIPTION OF THE AID — GROUNDS FOR INITIATING THE ARTICLE 88(2) PROCEDURE

The aid notified would be granted to Fiat Auto SpA, a subsidiary of Fiat SpA. The Fiat group operates in the automobile sector through three companies: Fiat Auto for cars, Iveco for industrial vehicles and Magneti Marelli for parts.

Fiat has plants in Italy, Poland, Turkey and South America. In 1998 it sold some 2,4 million vehicles ⁽³⁾ of the Alfa Romeo, Ferrari, Fiat, Lancia and Maserati makes, of which 38 % in Italy, 29 % in the rest of Europe and 33 % in the rest of the world.

The notified investment, totalling ITL 643 billion (EUR 332 million), is at Mirafiori (Turin). In March 1995 the area of Mirafiori was designated an assisted area under Article 87(3)(c) of the Treaty. The maximum aid intensity in force at the time and up to 1999 was then 10 % net grant equivalent (nge) for large firms.

Mirafiori Carrozzeria produces various cars: in 1994, at the start of the project, it made 411 800 Uno, Thema, Croma, Panda and Punto cars; in 1999, on completion of the investment, it produced 357 800 Punto/Model 188 ⁽⁴⁾, Marea and Multipla vehicles.

The notified project originally concerned, from 1994 to 1999, improvements to the management and organisation of the plant producing the new cars (the Marea, Model 188 and Multipla). Also, as the urban location of the plant imposed major production and logistical constraints, the investments were intended to improve working conditions, save energy and improve environmental protection.

Lastly, the investments safeguarded a number of jobs in an area suffering from industrial decline.

Under the scheme provided for by Law No 488 of 19 December 1992, already approved, regional aid was granted totalling ITL 8,7 billion (EUR 4 million) (present value). The discounted aid intensity was assessed at 2 %.

The Italian authorities then decided to alter the terms of the notification. In their reply of 20 November 1998 to further questions sent by the Commission in November 1997, they stated that the intensity of the regional aid (2,01 %) obviated the need for a cost-benefit analysis as the proposed aid could be authorised as aid to innovative investment. They then provided a description of the innovative investments, totalling ITL 51,1 billion nominal (present value ITL 33,7 billion), broken down into six subprojects for the Multipla and Marea. The letter also described but did not quantify other innovations, defined as 'complementary marginals'.

Provision was then made for aid totalling ITL 8,13 billion discounted and with an intensity of 24,1 % gross grant equivalent under the scheme provided for in Law No 488 of 19 December 1992, already approved.

⁽¹⁾ By letter of 14 June 1999.

⁽²⁾ OJ C 288, 9.10.1999.

⁽³⁾ Source: Fiat, facts and figures 1999.

⁽⁴⁾ Which replaced the Punto.

The letter from the Italian authorities of 20 November 1998 stated that the investment project was mobile in view of the financially advantageous possibility of extensively reducing capacity at Mirafiori and concentrating a large proportion of the investments at Bielsko-Biala in Poland. Only the part of the project relating to the Multipla would be kept at the Turin factory, but at Rivalta and not Mirafiori, for an equivalent cost.

On 3 February 1999, the Commission decided to initiate proceedings under Article 88(2) of the EC Treaty as the information in its possession was still incomplete and a number of doubts concerning the compatibility of the aid had emerged during its examination of the case, namely:

- (i) the Commission could not assess the innovative nature of the processes notified and questioned the fixing of the reference date for the examination of the alleged innovations and the practical consequences of fixing that date;
- (ii) it was not possible to calculate the aid intensity for the subprojects regarded as innovative;
- (iii) the aid intensity considerably exceeded the maximum rate authorised by the Commission in cases of investment aid for innovative purposes; it also seemed that Fiat Auto was not incurring a sufficient degree of risk to justify an aid intensity of 10 %.

It later emerged that Mirafiori Carrozzeria was not in an assisted area before March 1995. The project, however, started in 1994 and was preceded by feasibility and location studies probably carried out in 1993. The decision to invest at Mirafiori must therefore have been taken a priori in 1993/94 at the latest, when the plant was not located in an assisted area. The Commission, in its Decision to widen the procedure, therefore expressed serious doubts as to whether the investor may, in deciding to finance the project in question, have taken account of the prospect of obtaining regional aid. Consequently, the aid was not in its view needed to carry out the investment in question at Mirafiori.

Furthermore, both in the Decision to initiate proceedings and in the supplementary Decision, the Commission formally required Italy to supply within one month all the information required to assess the compatibility of the measures in question. Otherwise the Commission would adopt a decision on the basis of the data in its possession.

III. COMMENTS BY ITALY

On 9 April 1999 the Italian authorities requested an extension of the deadline in order to prepare their reply to the Decision of 3 February 1999, and on 16 April they sent a letter to the Commission containing additional information for the examination of the Mirafiori Carrozzeria case.

The Italian Government stressed above all 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 mobility and performance of the cost-benefit analysis. The comments made in this context go beyond the specific case of Mirafiori Carrozzeria and include all of the six Fiat cases referred to above.

As far as the assembly plants are concerned ⁽¹⁾, Italy noted that Fiat had in particular drawn up a coherent investment programme for the period 1993 to 1998 after considering two scenarios: carrying out the investments concerned giving preference either to the Italian plants or to its Polish plants (maximising transfers of production to Tichy and Bielsko-Biala). The diagrams attached to the letter of 16 April 1999 illustrate the capacity allocations to each plant according to the scenario under consideration. Various analyses carried out by Fiat showed that setting up a plant in Poland to produce Fiat and Alfa Romeo segment B, C and D vehicles would have been more profitable than the option finally chosen by Fiat, which limits Polish production to segment A vehicles only. Given the same or a slightly higher investment, the higher profitability would chiefly have resulted from the reduced labour costs and lower transport costs to the outlet markets ⁽²⁾, as well as lower component costs, as the market of local Fiat suppliers, already well organised, would have expanded still further.

⁽¹⁾ Cassino, Mirafiori Carrozzeria, Pomigliano and Rivalta for the purposes of this Decision.

⁽²⁾ The markets of central Europe (Belgium, France, Germany, the Netherlands, etc.) and of eastern Europe.

The Italian authorities pointed out that Fiat could have achieved the workforce reduction necessary for relocating production to Poland through staff turnover, in particular by deciding not to replace the many workers that were due to retire, given the shape of the age pyramid at the various plants belonging to the group. On the other hand, a fall in employment in areas of Italy in industrial decline or in the south of the country would have been seen as a negative consequence, even by Fiat.

The regional aid initially planned would not have been 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 Cassino, Mirafiori Carrozzeria, Pomigliano and Rivalta projects were mobile.

With regard to the Mirafiori Carrozzeria project, the mobility was evident from the general explanations given above. The Italian authorities added that, in the context of the very strong ties between the Rivalta and the Mirafiori plants that have created a highly integrated complex which the Italians refer to as the 'Rivalta-Mirafiori area', the real choice facing Fiat was, for the Marea only, either to allocate 400 cars/day to Mirafiori and 200 cars a day to Rivalta, or to allocate 300 cars a day to Mirafiori and the equivalent ⁽¹⁾ of 300 cars a day to Bielsko-Biala. No further details were supplied concerning the mobility of the Punto/Model 188 and the Multipla.

Secondly, Law No 488/92 did not allow aid to be granted, in the six cases concerned, to a single horizontal aid programme, requiring instead that grant applications be separated. As the first two invitations to tender used to determine the projects eligible for aid concerned six separate locations, Fiat submitted six separate applications for aid. The six cases were therefore notified to the Commission separately. Another difficulty with examining the cases was due to the fact that the projects were notified on two separate occasions, in October 1997 and December 1997. That is why the Commission applied two different sets of guidelines for aid to the motor vehicle industry. The first set requires the comparator site used for the cost-benefit analysis to be located in a non-assisted region of the Community; the second allows the reference site to be located in the EEA or the countries of central and eastern Europe.

This artificial distinction did not reflect the economic reality of the investments. It overlooked the interdependence of the different production plants and the resulting synergies. The Italian authorities therefore considered it extremely difficult to apply the two cost-benefit analysis methods separately, as required by the Commission, since this would not be consistent with the integrated nature of the investment programme and the resulting financial calculations. The cost-benefit analyses should have been examined as a whole by the Commission.

The letter of 16 April 1999 provided detailed data on the basis of which cost-benefit analyses could have been carried out for the Mirafiori Carrozzeria, Rivalta, Cassino and Pomigliano plants, in comparison with Bielsko-Biala, in a context of optimum allocation of production between Italy and Poland. More specifically, the costs of the Mirafiori Carrozzeria and Poland projects were compared on the basis of the mobility hypothesis explained above. The investments, worth a total of ITL 643 billion, were carried out according to the following timetable:

(in billion ITL)

	1994	1995	1996	1997	1998	1999	Total
Mobile investment	11	51	46	45	73	4	230
Non-mobile investment	0	95	60	50	190	18	413
Total	11	146	106	95	263	22	643

Thirdly, the Italian authorities stated that the investments in question can also be subdivided into two other categories:

- (i) innovative investments, amounting to a nominal ITL 80 billion, and
- (ii) technological investments, eligible for regional aid, amounting to a nominal ITL 563 billion.

⁽¹⁾ i.e. 280 cars/day in Poland, which has more working days than Italy.

The innovative investments comprise three subcategories, the aid intensity varying according to the degree of innovation:

<i>(in billion ITL)</i>		
Subject	Amount	Aid intensity
Variable-section underframes	19	10 %
Multipla process	50	10 %
Other innovations	11	5 %
Total	80	9,3 %

The Italian Government noted that the reference date for assessing the innovative nature of the 'variable-section' and 'Multipla' projects should be 1995, which is when the investments in question began.

This was the first time that these projects had been carried out in Europe by a car manufacturer, with the assistance of a component supplier (EMARC).

With regard to the technological investments, Italy points out that the proposed regional aid intensity, in addition to the innovative investment aid, would be only 1 %, or 10 % of the regional ceiling of 10 %. It was therefore unnecessary to draw up a cost-benefit analysis.

The notified aid would therefore be as follows:

<i>(in billion ITL)</i>			
	Eligible investment	Aid intensity	Aid investment
Aid to innovative investment	80	9,3 %	7,45
Regional aid	563	1 %	5,63
Total			13,08

Fourthly, Italy generally points out the specific terms for implementing Law No 488/92, particularly as regards the retroactive conditions for eligibility of the investment.

In reply to the Commission's Decision of 26 May 1999 to extend the investigation, on 20 July 1999 Italy sent a letter giving detailed information on two main aspects: the events leading up to adoption of the new aid scheme and the link with implementation of the aid in question, and compliance with the formal criteria in the applications for aid.

IV. ASSESSMENT OF THE AID

The measure notified by the Italian authorities for Fiat Auto constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through State resources. Furthermore, as it constitutes a significant proportion of the financing of the project, the aid is liable to distort competition in the Community by giving Fiat Auto an edge over competitors not receiving aid. Lastly, there is extensive trade between Member States in the motor vehicle market.

The aid in question would be granted under the approved scheme provided for in Law No 488/92 and is intended for a company engaged in the manufacture and assembly of motor vehicles. Accordingly, aid proposals must be examined under the relevant Community framework for State aid to the motor vehicle industry. The Italian Government notified the case on 28 October 1997. The notification was registered by

the Commission on 29 October 1997. The relevant framework is therefore the one published in *Official Journal of the European Communities* No C 123 of 18 May 1989 ⁽¹⁾, as confirmed by the framework which entered into force on 1 January 1998; the latter states that cases notified before 1 November 1997 but which have not yet been declared compatible by the Commission, or are the subject of proceedings under Article 88(2) of the Treaty initiated before that date, will be examined on the basis of the preceding framework, which entered into force on 1 January 1996 for two years. Italy did not challenge this assessment in the course of the procedure.

The Commission also notes that the aid would be granted under an approved scheme, and that the cost of the project exceeds EUR 7 million. The Italian authorities have therefore complied with the notification requirement. However, the Commission deplores the considerable delay between the signing, on 20 November 1996, of the Ministerial Decree providing for the aid in question and the date on which it was officially notified, i.e. the end of October 1997.

Article 87(2) of the Treaty specifies certain types of aid that are compatible with the Treaty. In view of the nature and purpose of the aid and the geographic location of the investment, Article 87(2)(a), (b) and (c) are not applicable. Article 87(3) specifies other forms of aid which may be regarded as compatible with the common market. Their compatibility with the Treaty must be assessed from the standpoint of the Community as a whole and not in a purely domestic context. In order to maintain the proper functioning of the common market and having regard to the principle in Article 3g of the Treaty, the exceptions in Article 87(3) must be construed narrowly. With regard to the exceptions in Article 87(3)(b) and (d), it is clear that the aid in question is not intended for a project of common European interest or to remedy a serious disturbance in the Italian economy or to promote culture and heritage conservation. As regards the exceptions in Article 87(3)(a) and (c), only subparagraph (c) could be relevant as Mirafiori is located in an area assisted under Article 87(3)(c) but not under Article 87(3)(a).

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 Community framework for State aid to the motor vehicle industry.

The Commission checks that aid granted is proportional to the gravity of the problems it is designed to resolve and is necessary to the execution of the project. Compliance with both the proportionality and necessity criteria ⁽²⁾ is essential if the Commission is to authorise State aid in the motor vehicle sector.

It is necessary, in this general context, to analyse the regional aid projects and the innovative investment aid.

Regional aid

While the proportionality of regional aid is usually assessed by means of a cost-benefit analysis, in the present case the Commission can limit its assessment to the necessity test alone.

When initiating the procedure, the Commission took note of the particular events which led to the authorisation of the Italian scheme under Law No 488/92. In keeping with the decisions it had already taken on 18 November 1997 ⁽³⁾, 30 September 1998 ⁽⁴⁾ and 7 April 1998 ⁽⁵⁾, the Commission acknowledged that particular circumstances surrounding the adoption of Law No 488/92 could explain the long delays between the launch of the project, the start of mass production of the vehicles concerned, the application for aid in 1996 and the notification in October 1997. However, examination of the necessity for the aid to the siting of the project at Mirafiori cannot be restricted to consideration of such factors; the Commission must also check whether the regional aid was indeed taken into account in the financial analyses, in particular the location study, with a view to the selection by Fiat of the Mirafiori site.

⁽¹⁾ As amended by OJ L 231, 3.9.1994 and OJ C 284, 28.10.1995.

⁽²⁾ See in this connection paragraph 17 of the Court's judgment in Case 730/79 *Philip Morris* [1980] ECR 2671.

⁽³⁾ OJ C 70, 6.3.1998, p. 7.

⁽⁴⁾ OJ C 409, 30.12.1998, p. 7 and OJ C 384, 12.12.1998, p. 20.

⁽⁵⁾ OJ C 240, 31.7.1998, p. 3.

The Commission also has to check whether the evidence supplied by Italy in support of its claims is sufficient in the context of a narrow interpretation of the exemptions provided for by Article 87(3) and having due regard to the formal requirements to supply information of 3 February and 26 May 1999.

The letter of 16 April 1999 from the Italian authorities states that the programme for the Marea, Multipla and the (new) Punto started on 31 May 1994. Furthermore, according to the information in the Commission's possession, spending under the global programme started in May 1994, while pre-production of the Marea (the only vehicle which could be affected by the alleged mobility and hence the only vehicle for which regional aid could be authorised) began in August 1995.

The letter from the Italian authorities of 20 July 1999 states that the machinery was ordered in March/April 1994, with deliveries beginning in the second half of 1994. It was also confirmed that the location study which allegedly led Fiat to choose Mirafiori was carried out in 1993 and 1994.

The Commission notes that Mirafiori was not located in an assisted area until March 1995, when the Mirafiori municipality became an assisted area under Article 87(3)(c). Furthermore, as confirmed in the letter of 20 July 1999, Italy submitted an initial proposal for the areas to be classed as assisted areas under Article 87(3)(c) only in September 1994.

The Commission therefore concludes that the decision to invest in the Marea-Multipla-Punto programme was taken at a time when the Mirafiori plant was not located in an assisted area.

This assessment is not affected by Mirafiori's location in an Objective 2 area or by the alleged possibility of transferring the machinery from one site to another during the initial phases of the project.

The start of pre-production of the Marea, which, according to information supplied by the Italian authorities, took place in 1995, confirms moreover that a significant part of the investment needed to produce the Marea was carried out in the period before the decision on assisted-area status was taken. The Commission has not, however, received any breakdown of investment by type of vehicle.

Accordingly, it is extremely unlikely that Fiat actually took account of the possibility of obtaining regional aid with a view to the financing of its Mirafiori project. Nor have the Italian authorities supplied any evidence to allay such doubts.

Even if Fiat had included the possibility of receiving regional aid as one of its reasons, it implicitly accepted the risk of the aid being withheld, since the Commission's prior authorisation was required in accordance with the Community framework for State aid to the motor vehicle industry.

Moreover, at the time when Fiat decided to carry out the investment and therefore took account of the possibility of obtaining State aid to help finance the project at Mirafiori, Commission policy was to require a cost-benefit analysis (CBA) based on a comparison between the plant in question and an alternative site in a non-assisted region of the Community where Fiat could very probably have located the investment. The Italian authorities and Fiat were familiar with this methodology at the time since they had, for example, already handled the Fiat Mezzogiorno case⁽¹⁾. The Commission does not have any information on the choice of comparator plant, but the most likely alternative would have been a plant located in central or northern Italy. The Commission's experience shows that a CBA drawn up on the basis of such an assumption would have made it difficult, if not impossible, to identify handicaps for Mirafiori justifying the authorisation of regional aid. Again, the Italian authorities have not supplied proof that Fiat effectively took regional aid into account in its decision to carry out the investment at Mirafiori.

The Commission points out, incidentally, that reference to an alternative plant in Poland (Bielsko-Biala), as called for by Italy in the case in point, became possible only after the entry into force of the new framework for State aid to the motor vehicle industry in January 1998, some four years after the investment decision was taken.

⁽¹⁾ OJ C 37, 11.2.1993, p. 15.

Lastly, the Commission considers that a Member State and an undertaking cannot legitimately rely on a given region being classed as eligible for assistance under Article 87(3)(c) until the Commission has taken a decision to that end.

For this reason, the Commission finds that the Italian Government has not demonstrated that Fiat actually took the granting of regional aid into consideration in its calculations as a necessary criterion for selecting the Mirafiori site. The notified regional aid is not therefore necessary in order to achieve the objectives of Article 87(3)(c), in this case the aim of facilitating the development of certain economic areas.

Secondly, in order to demonstrate the necessity for regional aid, the Commission's practice under the framework in force is to check that the aid recipient has an economically viable alternative as regards the location of its project or parts of its project. If no other industrial site, whether new or already in existence, was capable of receiving the investment in question within the group, the firm would be compelled to carry out its project in the sole plant available, even in the absence of aid.

The information supplied by Italy on this subject, despite the many requests for further details, is still inadequate. The Commission was given only a very brief explanation stating that Fiat's choice had been between the Polish plants and the Rivalta/Mirafiori complex and claiming that the Polish alternative would have had significant advantages over Italy, especially in terms of labour costs.

The Commission takes the view that at the time the investment decision was taken, in 1993 to 1994, the real advantages of locating the project in Poland were not as obvious as the Italian authorities currently maintain. For example, the industrial risk was not negligible, at a time when Fiat Auto Poland was undergoing intensive reorganisation. The networks of local parts suppliers were not as developed as they are today and it was not certain that new suppliers would become established; furthermore, in their analysis of the mobility of the project, the Italian authorities pass over the important advantages in terms of flexibility (one of Fiat's strategic objectives) to be gained from establishing and maintaining the Rivalta/Mirafiori complex.

Thus the Italian authorities were able to provide the Commission with only very fragmentary information on the real prospects for producing the Marea in optimum conditions according to the following alternative: 400 cars/day at Mirafiori and 200 cars/day at Rivalta or 300 cars/day at Mirafiori and an equivalent of 300 cars/day at Bielsko-Biala. No satisfactory reasons were given for the production rates chosen for each plant; virtually no information was given concerning Fiat's actual plans to move the investment in question to Poland.

The Commission therefore considers that Italy has not demonstrated, even theoretically, that the project is mobile. The notified regional aid is not therefore necessary to attain the objectives of Article 87(3)(c), namely, to facilitate the development of certain economic areas.

Thirdly, the Commission notes, incidentally, that difficulties also arise regarding the proportionality of the regional aid.

Italy considers on the one hand that the investments regarded as eligible total ITL 563 billion and, on the other, that a cost-benefit analysis is not necessary in the present case because the intensity of the regional aid envisaged would be 1 %, i.e. 10 % of the regional ceiling of 10 %. Nominal aid of ITL 5,63 billion could therefore be authorised.

The Commission's policy under the relevant framework is to consider that all assisted regions suffer from minimum structural handicaps. Thus an aid intensity of 10 % ⁽¹⁾, of the regional ceiling may be regarded as the minimum compensation for the handicaps facing an investor in an assisted area; no cost-benefit analysis is therefore needed to assess the net handicaps of the project in the region in question. However, the Commission notes that an aid intensity is by definition calculated with regard to the amount of the eligible investment. In the motor vehicle industry, only mobile investments can be regarded as eligible. Yet Italy acknowledges that only ITL 230 billion constitute mobile investments. With regard to the proposed aid of ITL 5,63 billion, the corresponding intensity would thus be 2,4 %. The Commission also considers that Italy has not provided any clarification in support of its claims concerning the value of the mobile investments. It cannot therefore be ruled out that the actual amount is even lower than the amount proposed, as a result of which the aid intensity would be still higher.

⁽¹⁾ See the Ford Bridgend case (N 781/96), OJ C 139, 6.5.1997, p. 4.

Furthermore, the information sent by the Italian Government does not allow a sufficiently exact cost-benefit analysis to be made. Thus, for example, the necessary investments in Poland are not explained in sufficient detail.

For these reasons, even if the necessity for the aid had been demonstrated (which it has not), and in view of the official requests for information sent in the case in question, the Commission was not able to check that the regional aid in question complied with the proportionality criterion.

Conclusion

The regional aid which the Italian authorities plan to grant to Fiat Mirafiori Carrozzeria, totalling ITL 5,63 billion, is not necessary in order to achieve the objectives referred to in Article 87(3)(c), namely to facilitate the development of certain economic activities or areas. Nor is there any evidence of its proportionality. The regional aid in question is therefore incompatible with the common market.

Innovative investment aid

The fact that regional aid is not needed in order to locate the project in an assisted area does not mean that aid is not required in order to facilitate the introduction of industrial innovation in the motor vehicle sector.

On the basis of the relevant framework, the Commission takes a firm position with regard to aid to modernisation and innovation. In particular, proposals to grant aid for innovation are examined to determine whether they effectively concern the introduction at Community level of truly and substantially innovative products or processes.

The Commission therefore asked its experts to analyse the technical content of the projects regarded as innovative by the Italian authorities and to compare them with the state of the art in the European motor vehicle industry at the time the investment decision was taken and the machinery manufactured.

The experts concluded that the production of variable-section underframes and the Multipla process were innovative, chiefly because no aluminium components are used. Indeed, the investments continue even at the present time to be highly innovative. They also considered that the two projects involve an element of industrial risk which justifies a gross aid intensity of 10 %.

On the other hand, following an in-depth examination, the other investments presented by Italy cannot be defined as innovative within the meaning of the relevant framework. Furthermore, they involve only a very minor degree of risk.

This results in the following table:

(in billion ITL)

Subject	Amount presented	Innovative investment	Aid intensity	Compatible aid
Variable-section underframes	19	19	10 %	1,9
Multipla process	50	50	10 %	5,0
Other innovations	11	0	0 %	0
Total	80	69	10 %	6,9

The aid which Italy proposes to grant for the production of variable-section underframes and the Multipla process contributed to Fiat's decision to invest in innovation. A gross intensity of 10 % is in proportion with the objective pursued.

Conclusion

Accordingly, aid for innovation with a gross intensity of 10 % for investments not exceeding ITL 69 billion nominal relating to the production of variable-section underframes and the Multipla process is compatible with the common market.

Other aid

Other aid objectives mentioned at one point by the Italian Government, such as environmental protection, have never been explained in detail, despite the formal requests to provide information issued by the Commission. The Commission has consequently been unable to examine the presence of aid for any environmental protection measures,

HAS ADOPTED THIS DECISION:

Article 1

The aid to innovation, for investments worth a nominal ITL 69 billion, which the Italian Government plans to grant to Fiat Mirafiori Carrozzeria, is compatible with the common market within the meaning of Article 87(3)(c) up to a maximum gross intensity of 10 %.

Implementation of the aid is accordingly authorised.

Article 2

Any additional State aid that the Italian Republic plans to grant to Fiat for its investment project at Mirafiori Carrozzeria is incompatible with the common market.

Article 3

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

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 12 July 2000.

For the Commission

Philippe BUSQUIN

Member of the Commission

CORRIGENDA

Corrigendum to Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005)

(Official Journal of the European Communities L 336 of 30 December 2000)

The text of the Decision should be replaced by the following:

**'COUNCIL DECISION
of 20 December 2000**

on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005)

(2000/821/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 157(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas:

- (1) From 6 to 8 April 1998, the Commission, in cooperation with the Presidency-in-office, held a European audiovisual conference on "Challenges and opportunities of the digital age" in Birmingham. This consultation process revealed the need for an enhanced programme of support for the European audiovisual industry, in particular in the area of the development, distribution and promotion of European audiovisual works. Moreover, in the digital age, activities in the audiovisual field also contribute towards the creation of new jobs, particularly in the production and dissemination of audiovisual content.
- (2) On 28 May 1998, the Council, in approving the outcome of the European Audiovisual Conference in Birmingham, highlighted the desirability of encouraging the development of a strong and competitive European audiovisual programme industry, taking particular account of Europe's cultural diversity and the specific conditions obtaining in restricted linguistic areas.
- (3) The Report of the High-Level Group on Audiovisual Policy of 26 October 1998 entitled "The Digital Age: European Audiovisual Policy" recognises the need to strengthen support measures for the cinematographic and audiovisual industry, in particular by endowing the MEDIA programme with resources commensurate with the size and strategic importance of the industry.
- (4) The challenges of production, distribution and availability of European audiovisual content were the main topics discussed at the Forum on Audiovisual Policy entitled "European content for the digital millennium", organised in Helsinki on 10 and 11 September 1999 by the Presidency-in-office in cooperation with the Commission.
- (5) In the communication from the Commission to the European Parliament and the Council of Ministers entitled "Audiovisual policy: Next Steps" the Commission recognises the need for increased public support, particularly at Community level, for strengthening the competitiveness of the European audiovisual industry.
- (6) The Green Paper on the "The Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation" underlines the risk of a shortage of good quality content on the digital and analogue television.
- (7) The Commission's public consultation on the Green Paper, highlighted the need to establish a framework to underpin the distribution and promotion of European audiovisual content for the traditional and new media in a digital environment.

- (8) In its conclusions of 27 September 1999 concerning the results of the public consultation on the Convergence Green Paper ⁽¹⁾, the Council called upon the Commission to take account of these results when drawing up proposals for measures for the strengthening of the European audiovisual industry, including the multimedia industry.
- (9) In its Communication of 14 December 1999 on "Principles and Guidelines for the Community's Audiovisual Policy in the Digital Age", the Commission defined its priorities in the audiovisual sector for the period 2000 to 2005.
- (10) The Commission implemented an "Action programme to promote the development of the European audiovisual industry (MEDIA) (1991-1995)", adopted by Council Decision 90/685/EEC ⁽²⁾, and which comprised in particular measures designed to support the development and distribution of European audiovisual works.
- (11) Further to the Green Paper "Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union", the Commission submitted in November 1995 a proposal for a Council Decision establishing a European Guarantee Fund to promote cinema and television production ⁽³⁾, on which the European Parliament delivered a favourable opinion on 22 October 1996 ⁽⁴⁾.
- (12) The Community strategy for developing and strengthening the European audiovisual industry was confirmed under the MEDIA II Programme (1996-2000), adopted by Council Decision 95/563/EC ⁽⁵⁾ and by Council Decision 95/564/EC ⁽⁶⁾. It is appropriate, on the basis of the experience acquired from the Programme, to ensure its extension, taking into account the results obtained.
- (13) In its report on the results obtained under the MEDIA II (1996-2000) programme, from 1 January 1996 to 30 June 1998, the Commission considers that the programme meets the principle of the subsidiarity of Community aid to national aid, since the areas in which MEDIA II intervenes complement the areas in which national support mechanisms traditionally intervene.
- (14) It is necessary to take cultural aspects of the audiovisual sector into account in accordance with Article 151(4) of the Treaty.
- (15) In accordance with the negotiating mandate given to the Commission by the Council, during the forthcoming World Trade Organisation (WTO) negotiations the Union should ensure, as in the Uruguay Round, that the Community and its Member States maintain the possibility to preserve and develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving their cultural diversity.

⁽¹⁾ OJ C 283, 6.10.1999, p. 1.

⁽²⁾ OJ L 380, 31.12.1990, p. 37.

⁽³⁾ OJ C 41, 13.2.1996, p. 8.

⁽⁴⁾ OJ C 347, 18.11.1996, p. 33.

⁽⁵⁾ OJ L 321, 30.12.1995, p. 25.

⁽⁶⁾ OJ L 321, 30.12.1995, p. 33.

- (16) Taking the same approach, the European Parliament, in its Resolution of 18 November 1999, recognised the European audiovisual sector's special role in sustaining cultural pluralism, a healthy economy and freedom of expression, reaffirmed its commitment to the freedom of action in the sphere of audiovisual policy obtained at the Uruguay Round, and took the view that the General Agreement on Trade in Services (GATS) rules on cultural services, in particular in the audiovisual sector, should not jeopardise the cultural diversity and autonomy of the WTO contracting parties.
- (17) In order to increase the added value of the Community measures, it is necessary to ensure complementarity between the measures taken at Community level and national forms of support.
- (18) It is necessary to establish consistency between this Decision and the action of the Commission on national measures to support the audiovisual sector, especially in the interests of preserving cultural diversity in Europe, by enabling national policies to develop adequately the potential for production in Member States. In addition, Community support can be combined with any public support.
- (19) The emergence of a European audiovisual market necessitates the development and production of European works, i.e. works originating in the Member States as well as works originating in European third countries participating in the MEDIA Plus programme or having a cooperation framework satisfying the conditions set out in Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽¹⁾.
- (20) In the next few years the digital revolution will mean that European audiovisual works will become more easily accessible thanks to new ways of transporting audiovisual content, and will become more widely available outside their country of origin.
- (21) The competitiveness of the audiovisual programme industry depends on the use of new technologies at the programme development, production and distribution stages. It is therefore appropriate to ensure suitable and effective coordination with the measures undertaken in the field of new technologies, in particular the Fifth Framework Programme of the European Community for research, technological development and demonstration activities (1998-2002), as adopted by Decision No 182/1999/EC of the European Parliament and of the Council ⁽²⁾, the future Sixth Framework Programme, and new opportunities for multilingual production, in order to make for consistency with the measures to be undertaken under those programmes, focusing in particular on the needs and potential of small and medium-sized enterprises (SMEs) operating on the audiovisual market.
- (22) In order to support European audiovisual projects, the Commission will examine the possibility of additional funding under other Community instruments, notably in the framework of "e-Europe" and the initiatives resulting from the Lisbon European Council conclusions, such as the European Investment Bank (EIB), the European Investment Fund (EIF) and the research framework programmes. The professionals in the audiovisual sector should be informed of the various support arrangements available to them within the framework of the European Union.
- (23) In accordance with the conclusions of the Lisbon European Council, the Council and Commission are to report by the end of 2000 on the ongoing review of EIB and EIF financial instruments in order to redirect funding towards business start-ups, high-tech firms and micro-enterprises, as well as other risk capital initiatives and guarantee arrangements proposed by the EIB and the EIF. In this connection, particular attention should be paid to the audiovisual industry, in order to improve its access to capital markets and increase its competitiveness.
- (24) In its report to the European Council, entitled "Job Opportunities in the Information Society", the Commission referred to the major job-creation potential provided by the new audiovisual services.
- (25) In its Communication on Community policies in support of employment, the Commission recognised the MEDIA II Programme's positive impact on employment in the audiovisual sector.
- (26) It is appropriate therefore to facilitate the development of investment in the European audiovisual industry and to call on the Member States to encourage job-creation in that industry by various means.
- (27) The MEDIA Plus programme should allow the establishment of an environment conducive to entrepreneurial skills and investment, so as to guarantee a place for the European audiovisual sector in the global economy and the effective promotion of cultural diversity.
- (28) The contribution that SMEs can make to the development of the audiovisual sector should be turned to good account.
- (29) There is a need to improve the conditions for distributing and promoting European cinematographic works on the European and international markets. Cooperation between international and national distributors, cinema owners and producers should be encouraged; networking by distributors, in particular SMEs, should also be encouraged, and support should be given to concerted action to promote common programming measures at European level.
- (30) There is a need to improve the television broadcasting prospects of European works on the European and international markets. Given the leading role which television channels can play in disseminating European works and the inadequate time they currently devote to such works in their scheduling, it is important that European broadcasters (as defined in Article 2 of Directive 89/552/EEC), encourage the European transmission of programmes by purchasing works produced in other Member States.
- (31) There is a need to facilitate market access for independent European production and distribution companies, and to promote both European works and European companies in the audiovisual sector.
- (32) Public access to the European audiovisual heritage should be improved, in particular through its digitisation and networking at European level.
- (33) European content holders should be encouraged to digitise and network their catalogues, including their archives and cinematographic heritage.
- (34) Support for development, distribution and promotion should take account of structural objectives, such as developing potential in countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area, and/or the development of an independent European sector, in particular SMEs.

⁽¹⁾ OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).

⁽²⁾ OJ L 26, 1.2.1999, p. 1.

- (35) The associated countries of Central and Eastern Europe, as well as Cyprus, Malta, Turkey and those EFTA countries which are parties to the EEA Agreement are recognised as potential participants in Community programmes on the basis of supplementary appropriations and in accordance with the procedures to be agreed with those countries.
- (36) The other countries of Europe which are parties to the European Convention on Transfrontier Television are an integral part of the European audiovisual area and should therefore be enabled to participate in this Programme on the basis of supplementary appropriations, in accordance with the procedures to be established in the agreements between the interested parties. Those countries should be able, if they wish, and regard being had to budgetary considerations or the priorities of their audiovisual industries, to participate in the programme and to benefit under a more limited cooperation formula, on the basis of supplementary appropriations and specific arrangements to be agreed between the interested parties.
- (37) The opening-up of the Programme to European third countries is subject to prior examination of the compatibility of their national legislation with the Community acquis, in particular with Council Directive 89/552/EEC.
- (38) Cooperation with non-European third countries, developed on the basis of mutual and balanced interests, may enable the European audiovisual industry to derive an added value in terms of the promotion, market access, distribution, dissemination and exploitation of European works in those countries. The inclusion of third countries will increase awareness of the cultural diversity of Europe and promote the spread of common democratic values. Such cooperation should be developed on the basis of supplementary appropriations and specific arrangements to be established in the agreements between the interested parties.
- (39) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽¹⁾ is included in this Decision for the entire duration of the programme, without prejudice to the powers of the budgetary authority as defined by the Treaty.
- (40) 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⁾,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment and objectives of the Programme

1. A programme, (hereinafter referred to as "the Programme"), is hereby established to encourage the development, distribution and promotion of European audiovisual works within and outside the Community, to run from 1 January 2001 to 31 December 2005, for the purpose of strengthening the European audiovisual industry.

2. The objectives of the Programme shall be as follows:

- (a) an improvement in the competitiveness of the European audiovisual sector — including small and medium-sized enterprises — on the European and international markets, by supporting the

- development, distribution and promotion of European audiovisual works, taking account of the development of new technologies;
- (b) strengthening the sectors which help improve the transnational movement of European works;
- (c) respect for and promotion of linguistic and cultural diversity in Europe;
- (d) enhancing the European audiovisual heritage, in particular by digitisation and networking;
- (e) development of the audiovisual sector in countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area and strengthening networking and transnational cooperation between small and medium-sized enterprises;
- (f) the dissemination of new types of audiovisual content using new technologies.

Those objectives shall be realised in accordance with the detailed arrangements set out in the Annex.

Article 2

Specific objectives of the Programme in the development field

In the development field, the specific objectives of the Programme shall be as follows:

- (a) to promote, by providing financial support, the development of production projects (dramas for cinema or television, creative documentaries, animated films for television or cinema, works exploiting the audiovisual and cinematographic heritage) submitted by independent enterprises, in particular small and medium-sized, and aimed at the European and international markets;
- (b) to promote, by providing financial support, the development of production projects that make use of new creation, production and dissemination technologies.

Article 3

Specific objectives of the Programme in the fields of distribution and dissemination

In the fields of distribution and dissemination, the specific objectives of the Programme shall be as follows:

- (a) to strengthen the European distribution sector in the field of cinema by encouraging distributors to invest in the production, acquisition, marketing and promotion of non-domestic European cinema films;
- (b) to foster the wider transnational dissemination of non-domestic European films, on the European and international markets, through incentives to stimulate their distribution and their screening in cinemas, *inter alia* by encouraging coordinated marketing strategies;
- (c) to strengthen the distribution sector for European works on media intended for private use, by encouraging distributors to invest in digital technology and in the promotion of non-domestic European works;
- (d) to promote the movement, in the Community and outside it, of European television programmes produced by independent companies by encouraging cooperation between broadcasters, on one hand, and independent European distributors and producers, on the other hand;
- (e) to encourage the creation of catalogues of European works in digital format intended for exploitation on new media;
- (f) to support the linguistic diversity of European audiovisual and cinematographic works.

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

*Article 4***Specific objectives of the Programme in the field of promotion and market access**

In the field of promotion and market access, the Programme shall aim to:

- (a) facilitate and encourage the promotion and movement of European audiovisual and cinematographic works at trade shows, fairs and audiovisual festivals in Europe and around the globe, insofar as such events may play an important role in the promotion of European works and the networking of professionals;
- (b) encourage the networking of European operators, by supporting joint activities on the European and international markets by national public or private promotion bodies.

*Article 5***Financial provisions**

1. Beneficiaries of Community support shall provide a substantial proportion of funding, which may include any other public funding. Community funding shall not exceed 50 % of the cost of operations. However, in the cases expressly provided for in the Annex, this proportion may reach as much as 60 % of the cost of operations.

2. The financial reference amount for implementation of the Programme for the period referred to in Article 1(1) shall be EUR 350 million. An indicative breakdown of that amount by sector is set out in section 1.5 of the Annex. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

3. Without prejudice to the agreements and conventions to which the Community is a contracting party, enterprises benefiting from the Programme must be owned and continue to be owned, whether directly or by majority participation, by Member States and/or by nationals of Member States.

*Article 6***Financial support**

Financial support under the Programme may be granted in the form of conditionally repayable advances, or subsidies, as defined in the Annex. The repayments under the Programme, together with the repayments from operations carried out under the MEDIA programme (1991-1995) and MEDIA II programme (1996-2000), shall be allocated to the requirements of the MEDIA Plus Programme.

*Article 7***Implementation of this Decision**

1. The measures necessary for the implementation of this Decision concerning the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 8(2):

- (a) the general guidelines for all the measures described in the Annex;
- (b) the content of the calls for proposals, the definition of the criteria and the procedures for the selection of projects;
- (c) questions concerning the annual internal breakdown of the Programme resources, including the breakdown between measures in the development, promotion and distribution sectors;
- (d) the arrangements for monitoring and assessing actions;
- (e) any proposal for the allocation of Community funds in excess of EUR 200 000 in the case of development, EUR 300 000 in the case of distribution and EUR 200 000 per beneficiary and per year

in the case of promotion. These thresholds may be reviewed by the Committee in the light of experience;

- (f) the choice of pilot projects provided for in Article 10.

2. The measures necessary for the implementation of this Decision concerning all the other matters shall be adopted in accordance with the advisory procedure referred to in Article 8(3). This procedure shall also apply to the final choice of technical assistance offices.

3. Technical assistance shall be governed by the provisions adopted pursuant to the Financial Regulation.

4. The Commission shall give the European Parliament and the Council regular and timely notice of the implementation of this Decision, in particular the use of the available resources.

*Article 8***Committee procedure**

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.

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.

4. The committee shall adopt its rules of procedure.

*Article 9***Consistency and complementarity**

1. When implementing the Programme, the Commission shall, in close cooperation with the Member States, ensure general consistency and complementarity with other Community policies, programmes and actions that impinge upon the audiovisual field.

2. The Commission shall ensure that there is effective liaison between this Programme and programmes and actions in the audiovisual field being carried out under Community cooperation with non-member countries and the relevant international organisations.

*Article 10***Pilot projects**

1. Pilot projects shall be implemented throughout the duration of the Programme aimed at improving access to European audiovisual content and at taking advantage of opportunities arising from the development and introduction of new and innovative technologies, including digitisation and new methods of dissemination.

2. In selecting the pilot projects to be implemented, the Commission shall be advised by technical consultation groups composed of experts designated by the Member States. The list of potential projects shall be submitted to the Committee regularly in accordance with the procedure laid down in Article 8(2).

*Article 11***Opening of the Programme to non-member countries**

1. The Programme shall be open to the participation of the associated countries of Central and Eastern Europe in accordance with the conditions laid down in the association agreements or their additional protocols relating to participation in Community programmes concluded or to be concluded with those countries.

2. The Programme shall be open to the participation of Cyprus, Malta, Turkey and those EFTA countries which are members of the EEA Agreement, on the basis of supplementary appropriations, in accordance with the procedures to be agreed with those countries.

3. The Programme shall be open to the participation of the countries which are parties to the Council of Europe Convention on Transfrontier Television other than those referred to in paragraphs 1 and 2, on the basis of supplementary appropriations, in accordance with conditions to be established in the agreements between the interested parties.

4. The opening-up of the Programme to the European third countries referred to in paragraphs 1, 2 and 3 shall be subject to prior examination as to the compatibility of their national legislation with the Community acquis, including the second subparagraph of Article 6(1) of Directive 89/552/EEC.

5. The Programme shall also be open to cooperation with other third countries on the basis of supplementary appropriations and the specific arrangements, including cost sharing under agreed procedures, to be established in agreements between the interested parties. The European third countries referred to in paragraph 3 which do not wish to participate fully in the Programme may be eligible for cooperation with the Programme under the conditions set out in this paragraph.

Article 12

Monitoring and evaluation

1. The Commission shall guarantee that measures taken under this Decision are subject to prior appraisal, and to subsequent monitoring

and evaluation. It shall ensure the accessibility of the programme and the transparency of its implementation.

2. After the completion of the projects, the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation, in order to assess whether the original objectives have been achieved.

3. After two years' implementation, the Commission shall, after bringing the matter before the Committee provided for in Article 8, present to the European Parliament, the Council and the Economic and Social Committee an evaluation report on the impact and effectiveness of the Programme on the basis of the results obtained. This report shall be accompanied, if need be, by any proposals for adjustments.

4. On completion of the Programme the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a detailed report on the implementation and results of the Programme.

Article 13

Entry into force

This Decision shall take effect on 1 January 2001.

Done at Brussels, 20 December 2000.

For the Council

The President

É. GUIGOU

ANNEX

1. MEASURES TO BE IMPLEMENTED

1.1. In the development of audiovisual works sector

In order to respond to business strategies reflecting the diversity of production structures and of projects, the Programme measures aim to provide financial assistance for enterprises in the audiovisual sector submitting either:

- (a) proposals for developing project packages for companies with a larger investment capacity, or
- (b) proposals for developing project packages for companies with a smaller investment capacity, or
- (c) proposals for developing audiovisual works presented project by project.

The selection criteria will take account chiefly of the European and international nature of the projects, in particular of their:

- production potential;
- potential for transnational exploitation, and the marketing and distribution strategies envisaged;
- quality and originality.

Support for development will be granted on terms that require, once a project enters the production phase, the support for the project to be reinvested in the development of new production projects.

The contribution will generally be limited to 50 % of project costs but may be raised to 60 % for projects which contribute to the enhancement of European linguistic and cultural diversity.

In the report provided for in Article 12, the Commission will evaluate the comparative results of the systems referred to in this Annex with regard to the programme objectives. It will submit to the Committee, in accordance with the procedure laid down in Article 8(2), appropriate proposals for the implementing rules for the rest of the Programme.

1.2. In the distribution and dissemination sector

1.2.1. Cinema distribution

The following lines of action will be implemented in order to achieve the objectives outlined in Article 3:

- (a) a support scheme in the form of a conditionally reimbursable advance for distributors of European cinematographic works outside their production territory. The aim of this scheme is to:
 - encourage the networking of European distributors in conjunction with international producers and distributors, in order to promote joint strategies for the European market;
 - encourage distributors in particular to invest in promotion and adequate distribution for European films;
 - support the multilingual aspects of European film-making (dubbing, subtitling, multilingual production and international sound tracking). That part of the support intended to finance the linguistic diversity of works will take the form of a subsidy.

The criteria for selecting beneficiaries may include provisions to distinguish between projects according to their budget category. Special attention will be given to films which contribute to the enhancement of European linguistic and cultural diversity.

- (b) a system of "automatic" support for European distributors proportional to the number of admission tickets sold for non-domestic European films in States participating in the Programme, up to a fixed ceiling per film and adjusted for each country. The support thus generated may be used by distributors only for investment in the following:
 - the coproduction of non-domestic European films;
 - the acquisition of distribution rights, for example by means of minimum guarantees, of non-domestic European films;
 - editing costs (prints, dubbing and subtitling), promotion costs and publicity costs for non-domestic European films.

Reinvestment arrangements will generally be limited to 50 % of project costs, but may be raised to 60 %, particularly for investment in the production stage and in films that are of interest in enhancing European linguistic and cultural diversity.

- (c) a system to assist European companies specialising in the international distribution of cinema films (sales agents) according to their performance on the market over a reference period of at least one year. This type of assistance may be used by sales agents for investment in acquisition (minimum guarantees) and in costs arising from the promotion of new European works on the European and international markets.
- (d) appropriate assistance to encourage operators to screen a significant proportion of non-domestic European films in première cinemas for a minimum screening period. The support shall be made conditional on showing a minimum number of European films. The level of support may take account of the number of admission tickets sold for non-domestic European films during a reference period up to a fixed ceiling.

Support may also be granted for the creation and consolidation of networks of European operators running joint schemes to encourage such scheduling.

Support may be used for the development of educational activities and for raising awareness amongst young cinema-goers.

As far as possible, support for cinemas and networks will encourage a balanced geographical distribution.

1.2.2. Distribution of European works off-line

This is understood to mean the distribution of European works on media intended for private use.

Automatic support: a system of automatic support for editors and distributors of European cinematographic and audiovisual works, excluding games, on media intended for private use (e.g. videocassettes and DVD) according to market performance over a reference period of at least one year. The evaluation of that performance may take account of the specific features of different national markets through appropriate weightings. The support granted may be used by distributors only for investment in the following:

- (a) the costs of editing and distributing new non-domestic European works in digital form; or
- (b) the costs of promoting new non-domestic European works in non-digital format.

This system is designed to:

- (a) encourage the use of new technologies in the production of European works intended for private use (production of a digital master for use by all European distributors);
- (b) encourage distributors in particular to invest in the promotion and adequate distribution of non-domestic European films and audiovisual works;
- (c) support the linguistic diversity of European productions (dubbing, subtitling and multilingual production).

1.2.3. Television broadcasting

Encourage independent producers to produce works (fiction, documentaries and animated films) involving no less than two broadcasters, and preferably more, in several States participating or cooperating on the programme, belonging to different language zones.

The criteria for selecting beneficiaries may include provisions that distinguish between projects by budget category and type. Special attention will be given to audiovisual works that contribute to the enhancement of European heritage and linguistic and cultural diversity.

That part of the support which is intended to finance the linguistic diversity of works (including production of the sound track - music and effects) will take the form of a subsidy.

1.2.4. Distribution of European works on-line

This is taken to mean the distribution of European works on-line via advanced distribution services and new media (e.g. Internet, video-on-demand). The aim is to encourage the European audiovisual industry to adapt to the development of digital technology, particularly as regards advanced on-line distribution services.

Introduction of incentives to digitise works and create promotional and publicity material in digital form, so encouraging European companies (suppliers of on-line access, special-interest channels, etc.) to create catalogues of European works in digital format for exploitation via new media.

1.3. Promotion

1.3.1. In the field of promotion and access to professional markets

The programme measures aim to:

- (a) improve the conditions governing access by professionals to trade shows and professional audiovisual markets within and outside Europe and via specific technical and financial support schemes as part of events such as:
 - the main European and international cinema markets;
 - the main European and international television markets;
 - special-interest markets, particularly for animated films, documentaries, multimedia and new technologies;
- (b) encourage the creation of a database and/or a network of databases on catalogues of European programmes, intended for professionals;
- (c) whenever possible, encourage support to promote cinematographic works, as from the production phase of the work in question.

To this end, the Commission is encouraging the networking of operators at European level, notably by supporting joint initiatives involving public or private national promotional bodies.

Support will generally be limited to 50 % of project costs but may be raised to 60 % for projects that enhance European linguistic and cultural diversity.

1.3.2. In the field of festivals

The programme measures aim to:

- (a) support audiovisual festivals realised in partnership that screen a significant proportion of European works;
- (b) encourage cooperative projects with a European dimension involving audiovisual events from at least eight States participating or cooperating in the programme, with a common action plan to promote European audiovisual works and their movement.

Particular attention will be paid to festivals which help to promote works from Member States or regions with a low audiovisual production capacity and works by young European directors, and which establish an active policy for promoting and encouraging the distribution of the European works featured.

Priority will be given to projects from networks which encourage lasting cooperation between events.

Support will generally be limited to 50 % of project costs but may be raised to 60 % for projects that contribute to the enhancement of European linguistic and cultural diversity.

1.3.3. Activities to promote European films and audiovisual programmes

To encourage professionals, in close association with the Member States, to organise activities targeted at the general public and promoting European cinema and audiovisual productions.

1.4. Pilot projects

Pilot projects, the objectives of which are defined in Article 10, may focus, *inter alia*, on the following areas, with a view to the enhancement, networking and promotion of:

- (a) cinematographic heritage;
- (b) European audiovisual programme archives;
- (c) catalogues of European audiovisual works;
- (d) digital dissemination of European content through, for instance, advanced distribution services.

The pilot projects will give rise to exchanges of experience; their results will be publicised widely in order to encourage the dissemination of best practices.

Once the programme has been implemented for two years, the Commission will verify the results of the pilot projects and propose adjustments to the programme.

1.5. Breakdown of resources

The funds available will be broken down according to the following guidelines:

Development:	at least 20 %
Distribution:	at least 57,5 %
Promotion:	approximately 8,5 %
Pilot projects:	approximately 5 %
Horizontal costs:	at least 9 %

All the percentage figures are indicative and are subject to changes by the Committee provided for in Article 8, in accordance with the procedure referred to in Article 8(2).

2. IMPLEMENTATION PROCEDURE

2.1. Approach

In implementing the Programme, the Commission will ensure compliance with the objectives set out in Article 1(2).

In implementing the Programme, the Commission, assisted by the Committee provided for in Article 8, will work closely with the Member States. It will also consult the partners concerned and ensure that the participation of professionals in the Programme reflects European cultural diversity.

2.2. Funding

2.2.1. Community contribution

Community funding will not exceed 50 % of the final cost of the measures (other than in the cases expressly provided for in this Annex, where a ceiling of 60 % applies) and will be granted in the form of conditionally reimbursable advances or subsidies. Only costs directly linked to execution of the measure receiving support will be eligible, even if the costs are defrayed in part by the beneficiary before the selection procedure. For multilingual support, the Community contribution will be in the form of subsidies.

2.2.2. Prior appraisal, monitoring and subsequent evaluation

Prior to approving a request for Community support, the Commission will carefully evaluate it to check that it complies with this Decision and with the conditions set out in subsections 2 and 3 of this section of the Annex.

Requests for Community support must include the following:

- (a) a financial plan setting out all the project funding components, including the financial support requested from the Commission;
- (b) a provisional work timetable;
- (c) any other relevant information required by the Commission.

2.2.3. Financial provisions and control

The Commission will set out the rules on commitments and payments for the measures undertaken pursuant to this Decision, in compliance with the appropriate provisions of the financial regulations.

It will particularly ensure that the administrative and financial procedures used are geared to the objectives pursued and to the practice and interests of the audiovisual industry.

2.3. Implementation

- 2.3.1. The Commission will implement the Programme. It may, to this end, call upon independent consultants and technical assistance offices to be selected, after a call for tenders, on the basis of their expertise in the sector, experience acquired in the MEDIA II programme, or other experience acquired in this area. The technical assistance will be financed by the Programme's budget. The Commission may also conclude, in accordance with the procedure referred to in Article 8(2), partnerships for operations with specialist bodies, including those which have been set up under other European initiatives such as Audiovisual Eureka, EURIMAGES and the European Audiovisual Observatory in order to implement joint measures that meet the Programme objectives in the field of promotion.

The Commission will make the final selection of the beneficiaries of the Programme and decide on the financial support to be granted, in accordance with Article 8, on the basis of preparatory work conducted by the technical assistance offices. It will give grounds for its decisions to applicants for Community support and ensure the transparency of implementation of the programme.

In order to execute the Programme and, in particular, evaluate the projects benefiting from Programme funding and networking activities, the Commission will draw on recognised, independent audiovisual experts in the fields of development, production, distribution and promotion, who are, where necessary, proficient in the area of the management of rights, especially in the new digital environment.

- 2.3.2. The Commission will take the necessary steps to provide information on the opportunities offered by the Programme, and will ensure its promotion. The Commission will also provide via the Internet comprehensive information concerning the support arrangements available under the European Union's policies which are of relevance to the audiovisual sector.

In particular, the Commission and the Member States will take the necessary steps, by continuing with the activities of the network of MEDIA Desks and Antennae and ensuring that their professional skills are enhanced, in order to:

- (a) inform professionals in the audiovisual sector of the various support arrangements available under European Union policies;
 - (b) publicise and promote the Programme;
 - (c) encourage maximum participation in the Programme's activities by professionals;
 - (d) assist professionals with the presentation of projects in response to calls for proposals;
 - (e) foster transborder cooperation between professionals;
 - (f) liaise between the various support bodies in the Member States with a view to ensuring that Programme activities complement national support measures.
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