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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 558/2001
of 19 March 2001**

**extending for a period of up to one year the financing of certain quality and marketing
improvement plans approved under Title IIa of Regulation (EEC) No 1035/72**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

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

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

Whereas:

- (1) Title IIa of Council Regulation (EEC) No 1035/72 of 18 May 1972, on the common organisation of the market in fruit and vegetables ⁽³⁾, provided for various specific measures to make good the inadequacy of production and marketing facilities for certain nuts and locust beans. Aid is provided to producer organisations which have received specific recognition and which have submitted a plan approved by the competent authority for improving the quality and the marketing of their produce.
- (2) Regulation (EEC) No 1035/72 was repealed by Regulation (EC) No 2200/96 ⁽⁴⁾. However, as specified by Article 53 of Regulation (EC) No 2200/96, any rights acquired by producer organisations in application of Title IIa of Regulation (EEC) No 1035/72 are to be maintained until exhausted.
- (3) The specific aid granted towards the drawing up and implementation of the quality and marketing improve-

ment plan as specified in Article 14(d)(2) of Regulation (EEC) No 1035/72 is restricted to a period of 10 years.

- (4) A number of plans expired in 2000, having completed the tenth year.
- (5) Regulation (EC) No 2200/96 provides that the Commission shall send the Council a report on the operation of that Regulation. This report shall include an assessment of the results of the specific measures for nuts and locust beans carried out under Title IIa of Regulation (EEC) No 1035/72 and may provide for further support measures. Until such time, those producer organisations whose improvement plans expired in 2000, and who continue to fulfil the recognition criteria, may request continued financing of their plans within the 2001 budget.
- (6) Only aid applications in respect of work carried out until 15 June 2001 qualify for financing within the 2001 budget.
- (7) In order to simplify administrative procedures, aid is limited to a maximum of those areas for which an aid application was made in the tenth year of the plan.
- (8) The abovementioned period of up to one year is not sufficient to complete work of grubbing operations followed by replanting and/or varietal reconversion. The maximum aid per hectare therefore should be paid in respect of other operations as specified in Article 2(1) third subparagraph and paragraph 2 of Council Regulation (EEC) No 790/89 of 20 March 1989 fixing the level of additional flat-rate aid for the formation of producers' organisations and the maximum amount applied to aid for quality and marketing improvement in the nut-and locust bean-growing sector ⁽⁵⁾,

⁽¹⁾ Opinion delivered 29 November 2000 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered 15 February 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 118, 20.5.1972, p. 1. Regulation as last amended prior to its repeal by Commission Regulation (EC) No 1363/95 (OJ L 132, 16.6.1995, p. 8).

⁽⁴⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Regulation (EC) No 2826/2000. (OJ L 328, 23.12.2000, p. 2).

⁽⁵⁾ OJ L 85, 30.3.1989, p. 6. Regulation as last amended by Commission Regulation (EC) No 1825/97 (OJ L 260, 23.9.1997, p. 9).

HAS ADOPTED THIS REGULATION:

Article 1

Recognised producer organisations engaged in the production and marketing of nuts and/or locust beans as specified in Article 14(a) of Regulation (EEC) No 1035/72 whose quality and marketing improvement plans were approved in 1990 may request continued financing of their plans for a further period of up to one year subject to the rules laid down in this Regulation.

Article 2

The aid shall be paid in regard to, and limited to, those areas for which an aid application has been submitted in respect of the tenth year of the plan and is limited to a maximum of EUR 241,50 per hectare as set in Article 2(1), third subparagraph, and paragraph 2 of Regulation (EEC) No 790/89. It shall apply for a period of up to one year immediately following the

expiry of the tenth year of the plan and up to 15 June 2001 at the latest.

Requests for extended financing of a plan in accordance with Article 1 are equivalent to acceptance by the producer organisation to apply its plan as approved for the tenth year for a further period of up to one year.

Article 3

The implementation rules applicable for the tenth year shall apply *mutatis mutandis* for the additional period referred to in Article 1.

Where necessary, measures shall be adopted in accordance with the procedure laid down in Article 46 of Regulation (EC) No 2200/96.

Article 4

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

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

Done at Brussels, 19 March 2001.

For the Council

The President

M. WINBERG

COMMISSION REGULATION (EC) No 559/2001
of 22 March 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 23 March 2001.

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

Done at Brussels, 22 March 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 22 March 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	84,8
	204	39,5
	212	106,0
	999	76,8
0707 00 05	052	91,6
	999	91,6
0709 10 00	220	255,0
	999	255,0
0709 90 70	052	126,7
	204	120,0
	999	123,3
0805 10 10, 0805 10 30, 0805 10 50	052	63,8
	204	47,4
	212	54,5
	624	56,6
	999	55,6
0805 30 10	052	57,2
	999	57,2
0808 10 20, 0808 10 50, 0808 10 90	388	91,4
	400	88,4
	404	83,7
	508	85,1
	512	83,2
	528	91,0
	720	105,5
	728	105,3
	999	91,7
	388	69,8
0808 20 50	512	67,3
	528	67,7
	999	68,3

⁽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 560/2001**of 22 March 2001****on fixing advance payments in respect of the production levies in the sugar sector for the 2000/2001 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000 ⁽²⁾, and in particular Article 33(8) thereof,

Whereas:

- (1) Article 5 of Commission Regulation (EEC) No 1443/82 of 8 June 1982 laying down detailed rules for the application of the quota system in the sugar sector ⁽³⁾, as last amended by Regulation (EC) No 392/94 ⁽⁴⁾, provides for the fixing before 1 April and the collection before the following 1 June, of the unit amounts to be paid by sugar producers, isoglucose producers and inulin syrup producers as advance payments of the production levies for the current marketing year. The estimate of the basic production levy and of the B levy, referred to in Article 6 of Regulation (EEC) No 1443/82, gives an amount which is more than 60 % of the maximum amounts indicated in Article 33(3), (4) and (5) of Regulation (EC) No 2038/1999. In accordance with Article 6 of Regulation (EEC) No 1443/82, the unit amounts for sugar and inulin syrup should therefore be fixed at 50 % of the maximum amounts concerned and for isoglucose the unit amount of the advance payment should therefore be fixed at 40 % of the unit amount of the basic production levy estimated for sugar.

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

HAS ADOPTED THIS REGULATION:

Article 1

The unit amounts referred to in Article 5(1)(b) of Regulation (EEC) No 1443/82 in respect of the 2000/2001 marketing year are hereby fixed as follows:

- (a) the advance payment of the basic production levy for A sugar and B sugar shall be EUR 0,632 per 100 kilograms of white sugar;
- (b) the advance payment of the B levy for B sugar shall be EUR 11,848 per 100 kilograms of white sugar;
- (c) the advance payment of the basic production levy for A isoglucose and B isoglucose shall be EUR 0,506 per 100 kilograms of dry matter;
- (d) the advance payment of the basic production levy for A inulin syrup and B inulin syrup shall be EUR 0,632 per 100 kilograms of dry matter equivalent sugar/isoglucose;
- (e) the advance payment of the B levy for B inulin syrup shall be EUR 11,848 per 100 kilograms of dry matter equivalent sugar/isoglucose.

Article 2

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

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 158, 9.6.1982, p. 17.

⁽⁴⁾ OJ L 53, 24.2.1994, p. 7.

COMMISSION REGULATION (EC) No 561/2001
of 22 March 2001
granting a temporary derogation from Regulation (EC) No 1445/95 on rules of application for
import and export licences in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular Article 29 thereof,

Whereas:

- (1) Article 10(1) of Commission Regulation (EC) No 1445/95 ⁽²⁾, as last amended by Regulation (EC) No 24/2001 ⁽³⁾, provides that export licences are to be issued on the fifth working day following that on which the application was lodged provided that no specific action has been taken by the Commission in the meantime.
- (2) Because of the public holidays in 2001 and the irregular publication of the *Official Journal of the European Communities* during those holidays, the period for reflection of five working days will be too brief to guarantee proper administration of the market. It should therefore be extended temporarily.

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

HAS ADOPTED THIS REGULATION:

Article 1

By derogation from Article 10(1) of Regulation (EC) No 1445/95, licences for which applications are lodged during the periods specified below shall be issued on the corresponding dates provided that no specific action as indicated in paragraph 2 of that Article has been taken prior to those dates:

- from 9 to 11 April 2001, to be issued on 19 April 2001,
- from 21 to 22 May 2001, to be issued on 30 May 2001,
- from 29 to 30 October 2001, to be issued on 7 November 2001.

Article 2

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

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 143, 27.6.1995, p. 35.

⁽³⁾ OJ L 3, 6.1.2001, p. 9.

**COMMISSION REGULATION (EC) No 562/2001
of 22 March 2001**

**fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of
goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1667/2000 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽⁵⁾, as amended by Regulation (EC) No 2390/2000 ⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. Whereas it is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. Whereas the fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

- (5) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ⁽⁷⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000 provides that a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93 ⁽⁸⁾, as last amended by Commission Regulation (EC) No 87/1999 ⁽⁹⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark stipulates that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.
- (8) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 23 March 2001.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 193, 29.7.2000, p. 3.

⁽⁵⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁶⁾ OJ L 276, 28.10.2000, p. 3.

⁽⁷⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁸⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁹⁾ OJ L 9, 15.1.1999, p. 8.

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

Done at Brussels, 22 March 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX

to the Commission Regulation of 22 March 2001 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases	— —	— —
1001 90 99	Common wheat and meslin: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases	— — — — 0,128	— — — — 0,128
1002 00 00	Rye	3,452	3,452
1003 00 90	Barley – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	— —	— —
1004 00 00	Oats	3,342	3,342
1005 90 00	Maize (corn) used in the form of: – starch: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽⁴⁾ : – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – where goods falling within subheading 2208 ⁽³⁾ are exported – other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	2,646 1,576 3,416 1,824 1,182 2,594 1,576 3,416 2,646 1,576 3,416	2,646 1,576 3,416 1,824 1,182 2,594 1,576 3,416 2,646 1,576 3,416

(EUR/100 kg)

(EUR/100 kg)			
CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly-milled rice:		
	– round grain	22,600	22,600
	– medium grain	22,600	22,600
	– long grain	22,600	22,600
1006 40 00	Broken rice	5,100	5,100
1007 00 90	Sorghum	—	—

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ The goods concerned fall under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex B of Council Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 563/2001**of 22 March 2001****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1667/2000 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95 ⁽⁵⁾, as amended by Regulation (EC) No 2993/95 ⁽⁶⁾, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month; whereas it may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 193, 29.7.2000, p. 3.

⁽⁵⁾ OJ L 147, 30.6.1995, p. 55.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 25.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 22 March 2001 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 ⁽¹⁾	C01	EUR/t	47,82	1104 23 10 9100	A00	EUR/t	51,24
1102 20 10 9400 ⁽¹⁾	C01	EUR/t	40,99	1104 23 10 9300	A00	EUR/t	39,28
1102 20 90 9200 ⁽¹⁾	C01	EUR/t	40,99	1104 29 11 9000	A00	EUR/t	1,31
1102 90 10 9100	C01	EUR/t	0,00	1104 29 51 9000	A00	EUR/t	1,28
1102 90 10 9900	C01	EUR/t	0,00	1104 29 55 9000	A00	EUR/t	1,28
1102 90 30 9100	C01	EUR/t	60,16	1104 30 10 9000	A00	EUR/t	0,32
1103 12 00 9100	A00	EUR/t	60,16	1104 30 90 9000	A00	EUR/t	8,54
1103 13 10 9100 ⁽¹⁾	A00	EUR/t	61,49	1107 10 11 9000	A00	EUR/t	2,28
1103 13 10 9300 ⁽¹⁾	A00	EUR/t	47,82	1107 10 91 9000	A00	EUR/t	0,00
1103 13 10 9500 ⁽¹⁾	A00	EUR/t	40,99	1108 11 00 9200	A00	EUR/t	2,56
1103 13 90 9100 ⁽¹⁾	A00	EUR/t	40,99	1108 11 00 9300	A00	EUR/t	2,56
1103 19 10 9000	A00	EUR/t	34,52	1108 12 00 9200	A00	EUR/t	54,66
1103 19 30 9100	A00	EUR/t	0,00	1108 12 00 9300	A00	EUR/t	54,66
1103 21 00 9000	A00	EUR/t	1,31	1108 13 00 9200	A00	EUR/t	54,66
1103 29 20 9000	A00	EUR/t	0,00	1108 13 00 9300	A00	EUR/t	54,66
1104 11 90 9100	A00	EUR/t	0,00	1108 19 10 9200	A00	EUR/t	77,52
1104 12 90 9100	A00	EUR/t	66,84	1108 19 10 9300	A00	EUR/t	77,52
1104 12 90 9300	A00	EUR/t	53,47	1109 00 00 9100	A00	EUR/t	0,00
1104 19 10 9000	A00	EUR/t	1,31	1702 30 51 9000 ⁽²⁾	A00	EUR/t	54,21
1104 19 50 9110	A00	EUR/t	54,66	1702 30 59 9000 ⁽²⁾	A00	EUR/t	41,50
1104 19 50 9130	A00	EUR/t	44,41	1702 30 91 9000	A00	EUR/t	54,21
1104 21 10 9100	A00	EUR/t	0,00	1702 30 99 9000	A00	EUR/t	41,50
1104 21 30 9100	A00	EUR/t	0,00	1702 40 90 9000	A00	EUR/t	41,50
1104 21 50 9100	A00	EUR/t	0,00	1702 90 50 9100	A00	EUR/t	54,21
1104 21 50 9300	A00	EUR/t	0,00	1702 90 50 9900	A00	EUR/t	41,50
1104 22 20 9100	A00	EUR/t	53,47	1702 90 75 9000	A00	EUR/t	56,81
1104 22 30 9100	A00	EUR/t	56,81	1702 90 79 9000	A00	EUR/t	39,43
				2106 90 55 9000	A00	EUR/t	41,50

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), amended.

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

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

C01: All destinations except Poland.

COMMISSION REGULATION (EC) No 564/2001**of 22 March 2001****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

ANNEX

**to the Commission Regulation of 22 March 2001 fixing the export refunds on cereals and on wheat or rye flour,
groats and meal**

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 11 9000	—	EUR/t	—
1001 10 00 9400	—	EUR/t	—	1101 00 15 9100	C01	EUR/t	16,50
1001 90 91 9000	—	EUR/t	—	1101 00 15 9130	C01	EUR/t	15,50
1001 90 99 9000	C01	EUR/t	0	1101 00 15 9150	C01	EUR/t	14,25
1002 00 00 9000	A00	EUR/t	0	1101 00 15 9170	C01	EUR/t	13,25
1003 00 10 9000	—	EUR/t	—	1101 00 15 9180	C01	EUR/t	12,25
1003 00 90 9000	A00	EUR/t	0	1101 00 15 9190	—	EUR/t	—
1004 00 00 9200	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1004 00 00 9400	—	EUR/t	—	1102 10 00 9500	C01	EUR/t	50,00
1005 10 90 9000	—	EUR/t	—	1102 10 00 9700	C01	EUR/t	39,50
1005 90 00 9000	A00	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1007 00 90 9000	—	EUR/t	—	1103 11 10 9200	A00	EUR/t	0 ⁽¹⁾
1008 20 00 9000	—	EUR/t	—	1103 11 10 9400	A00	EUR/t	0 ⁽¹⁾
				1103 11 10 9900	—	EUR/t	—
				1103 11 90 9200	A00	EUR/t	0 ⁽¹⁾
				1103 11 90 9800	—	EUR/t	—

⁽¹⁾ No refund is granted when this product contains compressed meal.

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

The other destinations are as follows:

C01 All destinations except for Poland.

**COMMISSION REGULATION (EC) No 565/2001
of 22 March 2001**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 1701/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of certain ACP States was opened pursuant to Commission Regulation (EC) No 1701/2000⁽⁵⁾, as last amended by Regulation (EC) No 293/2001⁽⁶⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 16 to 22 March 2001, pursuant to the invitation to tender issued in Regulation (EC) No 1701/2000, the maximum refund on exportation of common wheat shall be EUR 10,00/t.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 195, 1.8.2000, p. 18.

⁽⁶⁾ OJ L 43, 14.2.2001, p. 10.

**COMMISSION REGULATION (EC) No 566/2001
of 22 March 2001**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 2014/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to certain ACP States was opened pursuant to Commission Regulation (EC) No 2014/2000 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 16 to 22 March 2001, pursuant to the invitation to tender issued in Regulation (EC) No 2014/2000, the maximum refund on exportation of common wheat shall be EUR 11,95/t.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 241, 26.9.2000, p. 23.

COMMISSION REGULATION (EC) No 567/2001
of 22 March 2001
fixing the maximum export refund on barley in connection with the invitation to tender issued in
Regulation (EC) No 2317/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to all third countries except for the United States of America and Canada was opened pursuant to Commission Regulation (EC) No 2317/2000 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 16 to 22 March 2001, pursuant to the invitation to tender issued in Regulation (EC) No 2317/2000, the maximum refund on exportation of barley shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 267, 20.10.2000, p. 23.

COMMISSION REGULATION (EC) No 568/2001
of 22 March 2001
fixing the maximum export refund on rye in connection with the invitation to tender issued in
Regulation (EC) No 1740/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of rye to all third countries was opened pursuant to Commission Regulation (EC) No 1740/2000 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 16 to 22 March 2001, pursuant to the invitation to tender issued in Regulation (EC) No 1740/2000, the maximum refund on exportation of rye shall be EUR 36,50/t.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 199, 5.8.2000, p. 3.

COMMISSION REGULATION (EC) No 569/2001**of 22 March 2001****fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 2097/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾,

Having regard to Commission Regulation (EC) No 2097/2000 of 3 October 2000 on a special intervention measure for cereals in Finland and Sweden ⁽⁵⁾, as amended by Regulation (EC) No 393/2001 ⁽⁶⁾, and in particular Article 8 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 2097/2000.
- (2) Article 8 of Regulation (EC) No 2097/2000 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 16 to 22 March 2001, pursuant to the invitation to tender issued in Regulation (EC) No 2097/2000, the maximum refund on exportation of oats shall be EUR 39,23/t.

Article 2

This Regulation shall enter into force on 23 March 2001.

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

Done at Brussels, 22 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 249, 4.10.2000, p. 15.

⁽⁶⁾ OJ L 58, 28.2.2001, p. 8.

COMMISSION REGULATION (EC) No 570/2001**of 22 March 2001****determining the world market price for unginned cotton and the rate for the aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1(2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton ⁽⁴⁾, as last amended by Regulation (EC) No 1624/1999 ⁽⁵⁾. If it cannot be determined in this way it is to be based on the last price determined.
- (2) Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend. To this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade. These rules for determination of the world market price for ginned cotton provide for adjust-

ments to reflect differences in product quality and the nature of offers and quotations. These adjustments are specified in Article 2 of Regulation (EEC) No 1201/89.

- (3) Application of the above rules gives the world market price for unginned cotton indicated hereunder.
- (4) The second subparagraph of Article 5(3a) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is based on the revised production estimate for unginned cotton plus at least 7,5 %. Commission Regulation (EC) No 2714/2000 ⁽⁶⁾ fixes the revised production estimate for the 2000/2001 marketing year, and the relevant percentage increase. The application of this method results in the fixing of the advance payment rate for each Member State at the levels set out below,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at 29,471 EUR/100 kg.
2. The advance payment of the aid referred to in Article 5(3a), second subparagraph, of Regulation (EC) No 1554/95 is fixed at:
 - 62,266 EUR/100 kg in Spain,
 - 37,817 EUR/100 kg in Greece,
 - 76,829 EUR/100 kg in other Member States.

Article 2

This Regulation shall enter into force on 23 March 2001.

⁽¹⁾ OJ L 148, 30.6.1995, p. 45.

⁽²⁾ OJ L 148, 30.6.1995, p. 48.

⁽³⁾ OJ L 190, 4.7.1998, p. 4.

⁽⁴⁾ OJ L 123, 4.5.1989, p. 23.

⁽⁵⁾ OJ L 192, 24.7.1999, p. 39.

⁽⁶⁾ OJ L 313, 13.12.2000, p. 7.

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

Done at Brussels, 22 March 2001.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 12 March 2001

concerning reduced rates of excise duty and exemptions from such duty on certain mineral oils when used for specific purposes

(2001/224/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC, the Council, by Decision 1999/880/EC ⁽²⁾, authorised Member States to introduce exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.
- (2) The Council is required to decide, on the basis of a proposal from the Commission, whether the provisions in Decision 1999/880/EC enacting those exemptions and reductions should be modified or extended for a further period.
- (3) The abolition of the automatic extensions provided for in Decision 1999/880/EC would give the Council more effective control over such derogations, by ensuring that they are examined regularly and that conscious and explicit decisions are taken as to their continuation.
- (4) While guaranteeing equal treatment between Member States having similar derogations, this Decision is intended to extend for a six-year period all the deroga-

tions in force save those for road transport operators which are extended for a two-year period.

- (5) This Decision shall be without prejudice to the outcome of any procedures relating to distortions of the operation of the single market that may be undertaken, in particular under Articles 87 and 88 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty.
- (6) Decisions 1999/880/EC, 1999/804/EC ⁽³⁾, 2000/266/EC ⁽⁴⁾, 2000/433/EC ⁽⁵⁾, 2000/434/EC ⁽⁶⁾, 2000/446/EC ⁽⁷⁾ and 2000/719/EC ⁽⁸⁾ should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

1. By way of derogation from the provisions of Directive 92/82/EEC regarding the minimum rates of excise duty on mineral oils ⁽⁹⁾, Member States are hereby authorised to continue to apply the reductions in rates of excise duties or exemptions from such duty set out in Annex I hereto.

2. Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2006.

Article 2

1. By way of derogation from the provisions of Directive 92/82/EEC regarding the minimum rates of excise duty on mineral oils, the Member States concerned are hereby authorised to continue to apply the reductions in rates of excise duties or exemptions from such duty set out in Annex II hereto.

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 331, 23.12.1999, p. 73.

⁽³⁾ OJ L 313, 7.12.1999, p. 9.

⁽⁴⁾ OJ L 85, 6.4.2000, p. 21.

⁽⁵⁾ OJ L 172, 12.7.2000, p. 21.

⁽⁶⁾ OJ L 172, 12.7.2000, p. 23.

⁽⁷⁾ OJ L 180, 19.7.2000, p. 39.

⁽⁸⁾ OJ L 291, 18.11.2000, p. 30.

⁽⁹⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

2. Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2002.

Article 3

Decisions 1999/880/EC, 1999/804/EC, 2000/266/EC, 2000/433/EC, 2000/434/EC, 2000/446/EC and 2000/719/EC shall be repealed.

Article 4

This Decision shall apply from 1 January 2001.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

ANNEX I

Reduced rates of excise duty and exemptions from such duty referred to in Article 1

1. BELGIUM:

- for liquid petroleum gas (LPG), natural gas and methane;
- for local public passenger transport vehicles;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

2. DENMARK:

- for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels, provided that such incentives are linked to established technical characteristics including specific gravity, sulphur content, distillation point, cetane number and index and provided that such rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for the application of differentiated rates of excise duty between petrol distributed from petrol stations equipped with a return system for petrol fumes and petrol distributed from other petrol stations, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for differentiated rates of excise duties on petrol, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for local public passenger transport vehicles;
- for differentiated rates of excise duties on gas oil, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for partial reimbursement to the commercial sector, provided that the taxes concerned are in conformity with Community provisions and provided that the amount of the tax paid and not reimbursed at all times respects the minimum rates of duty or monitoring charge on mineral oils as provided for in Community law;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC.

3. GERMANY:

- for the use of waste hydrocarbon gases as heating fuel;
- a differentiated rate of excise duty on mineral oils used as fuel in local public passenger transport vehicles, subject to compliance with the obligations laid down in Directive 92/82/EEC;
- on samples of mineral oils intended for analysis, tests on production or for other scientific purposes;
- for a differentiated rate of excise duty on heating oils used by manufacturing industries, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

4. GREECE:

- for use by the national armed forces;
- to grant relief from the excise duties on mineral oils for fuels intended to be used to power the official vehicles of the Ministry of the Presidency and the national police force;
- for local public passenger transport vehicles;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for LPG and methane used for industrial purposes.

5. SPAIN:

- for LPG used as fuel in local public transport vehicles;
- for LPG used as fuel in taxis;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

6. FRANCE:

- in the framework of certain policies aimed at assisting areas suffering from depopulation;
- for consumption on the island of Corsica, provided that the reduced rates at all times respect the minimum rates of duty on mineral oils as provided for under Community law;
- for a differentiated rate of excise duty on a new fuel composed of a water-and-antifreeze/diesel emulsion stabilised by surfactants, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for a differentiated rate of excise duty for premium-grade unleaded petrol containing a potassium-based additive to improve resistance to valve burn-out (or any other additive of equivalent effect);
- for fuel used in taxis, within the limits of an annual quota;
- for exemption from excise duty on gases used as fuel for public transport subject to an annual quota;
- for an exemption from excise duties for gases used as engine fuels in gas-powered refuse collection vehicles;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;
- for an exemption for heavy fuel oil used as fuel for the production of alumina in the region of Gardanne;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for gasoline delivered from the harbours of Corsica to private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

7. IRELAND:

- for LPG, natural gas and methane used as motor fuel;
- in motor vehicles used by the disabled;
- for local public passenger transport vehicles;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for the production of alumina in the Shannon region;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

8. ITALY:

- for waste hydrocarbon gases used as fuel;
- for methane used as fuel in motor vehicles;
- in respect of the national armed forces;
- in respect of ambulances;
- for local public passenger transport vehicles;
- for fuel used in taxis;
- in certain particularly disadvantaged geographical areas, for reduced rates of excise duty on domestic fuel and LPG used for heating and distributed through the networks of such areas, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 5 and 7 thereof;

- for consumption in the regions of Val d'Aosta and Gorizia;
- for a reduction in excise duty on petrol consumed on the territory of Friuli-Venezia Giulia, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for a reduction in the rate of duty for mineral oils consumed in the regions of Udine and Trieste, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for an exemption from excise duty on mineral oils used as fuel for alumina production in Sardinia;
- for a reduction in the excise duty on fuel oil, for the production of steam, and for gas oil, used in ovens for drying and 'activating' molecular sieves in Reggio Calabria, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

9. LUXEMBOURG:

- for LPG, natural gas and methane;
- for local public passenger transport vehicles;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

10. NETHERLANDS:

- for LPG, natural gas and methane;
- on samples of mineral oils intended for analysis, tests on production or for other scientific purposes;
- in respect of the national armed forces;
- for the application of differentiated rates of excise duty on LPG used as fuel in public transport;
- for a differentiated rate of excise duty on LPG used as fuel for waste-collection, drain suction and street-cleaning vehicles.

11. AUSTRIA:

- for natural gas and methane;
- for LPG used as fuel in local public transport vehicles;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

12. PORTUGAL:

- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for exemption from excise duty on LPG, natural gas and methane used as fuel for local public passenger transport;
- for a reduction in excise duty on fuel oil consumed in the autonomous region of Madeira; this reduction may not be greater than the additional costs incurred in transporting the fuel oil to that region;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

13. FINLAND:

- for natural gas used as fuel;
- for an exemption from excise duty for methane and LPG for all purposes;
- for reduced excise duty rates on diesel fuel and heating gas oil, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for reduced excise duty rates on reformulated unleaded and leaded petrol, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

14. SWEDEN:

- for an exemption from excise duty for biologically produced methane and other waste gases;
- for reduced tax rates for diesel in accordance with environmental classifications;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for a reduced rate of excise duty on mineral oils used for industrial purposes, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for a reduced rate of excise duty on mineral oils used for industrial purposes by introducing both a rate which is lower than the standard rate and a reduced rate for energy-intensive enterprises, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and do not give rise to distortions of competition;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC.

15. UNITED KINGDOM:

- for LPG, natural gas and methane used as motor fuel;
 - for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels;
 - for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
 - for local public passenger transport vehicles;
 - for a differentiated rate of excise duty on water/diesel emulsion provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
 - for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
 - for navigation in private pleasure craft;
 - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.
-

ANNEX II

Reduced rates of excise duty and exemptions from such duty referred to in Article 2

1. FRANCE:

- for differential rates of tax on diesel used in commercial vehicles, provided that the differentiated rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.

2. ITALY:

- for a reduction in the rate of excise duty on diesel used as fuel by road transport operators, provided that the rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.

3. NETHERLANDS:

- for reduced rates of tax on diesel used in commercial vehicles, provided that the rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.
-

COUNCIL DECISION

of 12 March 2001

authorising the Federal Republic of Germany to apply a differentiated rate of excise duty to certain mineral oils, when used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

(2001/225/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission may authorise any Member State to introduce exemptions or reductions in the excise duty charged on mineral oils for special policy considerations.
- (2) The German authorities informed the Commission that a new law on the continuation of environmental tax reforms, brought into force on 1 January 2000, provided for differentiating levels of mineral oil duty on fuels according to their sulphur content.
- (3) The new law provided for mineral oil duty on petrol and diesel fuel with a sulphur content exceeding 50 ppm (parts per million) to be increased by 3 pfennigs per litre from 1 November 2001 and for this higher tax to be applied to fuels with a sulphur content exceeding 10 ppm from 1 January 2003.
- (4) The German authorities requested Council authorisation to apply the differentiated rate of excise duties and the Council authorised the German authorities to introduce a differentiated rate of excise duty for fuels with a sulphur content not exceeding 50 ppm from 1 November 2001 to 31 December 2002.
- (5) The Commission and Member States consider that, on the basis of the currently available information, there are no indications that extending the application of a differentiated rate of excise duty to fuels with a maximum sulphur content of 10 ppm is likely to give rise to distortions of competition or hinder the operation of the internal market.
- (6) This Decision does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty ⁽²⁾.

- (7) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market or are incompatible with Community policy on protection of the environment.
- (8) The Federal Republic of Germany has requested authorisation from 1 January 2003 to apply to fuels with a maximum sulphur content of 10 ppm a mineral oil tax of 3 pfennigs per litre less than that on fuels with a higher sulphur content.
- (9) The Council will review this Decision on the basis of a proposal from the Commission no later than 31 December 2005 when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 8(4) of Directive 92/81/EEC, the Federal Republic of Germany is authorised from 1 January 2003 until 31 December 2005 to apply a differentiated rate of excise duty to fuels with a maximum sulphur content of 10 ppm (parts per million) provided that the differentiated rates are in accordance with the obligations laid down in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ⁽³⁾, and in particular the minimum rates of excise duty provided for in Articles 4 and 5 thereof.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 12 March 2001.

For the Council
The President
B. RINGHOLM

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ Commission Decision of 15.2.2000. State aid case N/575/99 — Germany, 'Ökosteuer'.

⁽³⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

COUNCIL DECISION

of 12 March 2001

authorising the Italian Republic to apply a reduced rate of excise duty to certain mineral oils, when used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

(2001/226/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission may authorise any Member State to introduce exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.
- (2) The Italian authorities have informed the Commission that they wish to apply reduced excise duty to water/diesel emulsions and water/heavy fuel oil emulsions. The water/diesel emulsion will be used as motor fuel and also as heating fuel. The water/heavy fuel oil emulsion will be used as heating fuel and also for industrial purposes.
- (3) In so far as the water content of water/mineral oil emulsions does not contribute to energy release but simply aids fuel combustion, thus reducing pollutant emissions, the Italian authorities wish to apply reduced duty to these emulsions.
- (4) The other Member States have been informed thereof.
- (5) The Commission and all the Member States accept that the application of reduced excise duty to water/diesel emulsions and water/heavy fuel oil emulsions will not give rise to distortions of competition or hinder the operation of the internal market.
- (6) This Decision does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty, nor does it override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty.

- (7) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market or are incompatible with Community policy on protection of the environment.
- (8) To ensure fair and equitable duty charging and to encourage the use of more environmentally friendly fuels, the Italian Republic has requested authorisation to apply a reduced rate of excise duty to water/diesel and water/heavy fuel oil emulsions from excise duty from 1 October 2000.
- (9) The resultant differentiated rates of excise duty on these fuels will all respect the minimum rates of excise duty set out in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ⁽²⁾.
- (10) The Council will review this Decision on the basis of a proposal from the Commission no later than 31 December 2005 when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 8(4) of Directive 92/81/EEC, the Italian Republic is authorised to apply a reduced rate of excise duty to water/diesel emulsions and water/heavy fuel oil emulsions from 1 October 2000 until 31 December 2005 provided that the reduced rate is in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 5 and 6 thereof.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

COUNCIL DECISION

of 12 March 2001

authorising the French Republic to apply a differentiated rate of excise duty to certain mineral oils, when used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

(2001/227/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission may authorise any Member State to introduce exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.
- (2) As public transport is more environmentally friendly than transport in private vehicles, the French authorities have informed the Commission that they wish to introduce a differentiated rate of duty on diesel fuel used in local public passenger transport vehicles by refunding a proportion of future annual rises in duty on diesel fuel.
- (3) The other Member States have been informed thereof.
- (4) The Commission and all the Member States accept that the application of differentiated rate of excise duty on diesel fuel used in local public passenger transport vehicles will not give rise to distortions of competition or hinder the operation of the internal market.
- (5) This Decision does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty, nor does it override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty.
- (6) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market or

are incompatible with Community policy on protection of the environment.

- (7) The French Republic has requested authorisation to introduce the differentiated rate of duty on diesel fuel used in local public passenger transport vehicles from 1 January 2001.
- (8) The Council will review this Decision on the basis of a proposal from the Commission no later than 31 December 2005 when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 8(4) of Directive 92/81/EEC, the French Republic is authorised to apply a differentiated rate of excise duty on diesel fuel used in local public passenger transport vehicles from 1 January 2001 until 31 December 2005 provided that the differentiated rates are in accordance with the obligations laid down in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils⁽²⁾, and in particular the minimum rates laid down in Article 5 thereof.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

COUNCIL DECISION

of 12 March 2001

authorising the Netherlands, in accordance with Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to diesel consumed by taxis in 2000

(2001/228/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Under Article 8(4) of Directive 92/81/EEC the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.
- (2) The Netherlands has asked to be authorised to apply a differentiated rate of excise duty to diesel consumed by taxis in the course of 2000. A degressive refund, not exceeding NLG 0,14 per litre of diesel, is planned for all taxis operating in the Netherlands.
- (3) The measure complies with the minimum rate of excise duty referred to in Article 5 of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ⁽²⁾.
- (4) The refund falls short of the increase in retail fuel prices. The measure is therefore proportionate.
- (5) The Commission and all the Member States consider that the application of a differentiated rate of excise duty to diesel consumed by taxis in 2000 will not cause distortions of competition or hinder the operation of the single market. Being confined to taxis, whose activity is

by definition local, the derogation does not affect intra-Community trade.

- (6) The above information has been communicated to the other Member States,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 8(4) of Directive 92/81/EEC, the Netherlands is authorised to apply a degressive differentiated rate of excise duty, not exceeding NLG 0,14 per litre, on diesel fuel consumed by taxis in the period 1 January to 31 December 2000.

2. The differentiated rate must comply with the terms of Directive 92/82/EEC and in particular the minimum rates laid down in Article 5 thereof.

Article 2

This Decision shall apply from 1 January 2000.

Article 3

This Decision is addressed to the Netherlands.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

COUNCIL DECISION

of 12 March 2001

authorising the Netherlands, in accordance with Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to low-sulphur diesel

(2001/229/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union,

Having regard to Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils and in particular Article 8(4) thereof ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.
- (2) The Netherlands has asked to be authorised to apply a differentiated rate of excise duty to low-sulphur diesel (50 ppm) from 1 January 2001. The differential, not exceeding NLG 0,085 per litre, is available to all users of this type of fuel.
- (3) This low-sulphur diesel fuel complies with the 50 ppm environmental criterion laid down for this fuel in Annex IV to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels ⁽²⁾. Under Article 4(1)(c) of the Directive, its use will in any case be compulsory from 1 January 2005.
- (4) The above information has been communicated to the other Member States.
- (5) The measure as envisaged by the Netherlands authorities will be degressive in line with the increasing availability of this type of fuel as a percentage of all diesel put on the market in the Netherlands. It complies with the minimum rate of excise duty referred to in Article 5 of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ⁽³⁾.

- (6) The derogation is sought on environmental grounds: the benefits in terms of air quality are known.
- (7) On the information available at present neither the Commission nor the Member States consider that the application of a differentiated rate of excise duty on low-sulphur diesel will cause distortions of competition affecting the common interest or hinder the operation of the single market. They are satisfied that adequate supplies of the fuel, of a satisfactory quality, are available in the Netherlands.
- (8) This Decision is without prejudice to the outcome of any future State aid proceedings that may be undertaken in accordance with Articles 87 and 88 of the Treaty, nor does it override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty.
- (9) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market and that they are not incompatible with Community policy on protection of the environment.
- (10) The Council will review this Decision on the basis of a proposal from the Commission no later than 31 December 2004 when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 8(4) of Directive 92/81/EEC, the Netherlands is authorised to apply a differentiated rate of excise duty on low-sulphur diesel fuel (50 ppm) from 1 January 2001.
2. The degressive differentiated rate, not exceeding NLG 0,085 per litre, must comply with the terms of Directive 92/82/EEC and in particular the minimum rates laid down in Article 5 thereof.
3. The differentiated rate must be accorded to all users of low-sulphur 50 ppm diesel without discrimination.

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 350, 28.12.1998, p. 58. Directive amending Council Directive 93/12/EEC (OJ L 74, 27.3.1993, p. 81).

⁽³⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

Article 2

Without prejudice to an early review by the Council on the basis of a proposal from the Commission, this authorisation expires on 31 December 2004.

Article 3

This Decision shall apply from 1 January 2001.

Article 4

This Decision is addressed to the Netherlands.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

COMMISSION

COMMISSION DECISION

of 21 February 2001

terminating the anti-dumping proceeding concerning imports of ferro-silicon originating in Brazil, the People's Republic of China, Kazakhstan, Russia, Ukraine and Venezuela

(notified under document number C(2001) 414)

(2001/230/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Articles 9 and 11(2) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigations

- (1) Anti-dumping measures on imports of ferro-silicon (FeSi) originating in Venezuela have been in force since 1983 and on imports originating in Brazil, Kazakhstan, Russia and the Ukraine since 1987. These measures were added to and extended by the imposition of definitive anti-dumping measures against imports originating in Kazakhstan, Russia, Ukraine, Norway, Iceland, Sweden, Brazil and Venezuela by Council Regulation (EC) No 3359/93 of 2 December 1993 imposing amended anti-dumping measures on imports of ferro-silicon originating in Russia, Kazakhstan, Ukraine, Iceland, Norway, Sweden, Venezuela and Brazil ⁽³⁾. Measures on imports from Iceland, Norway and Sweden were suspended by the application of Council Regulation (EC) No 5/94 of 22 December 1993 on the suspension of anti-dumping

measures against EFTA countries from 1 January 1994 ⁽⁴⁾. Measures on imports from Brazil were partially reviewed and, by Council Regulation (EC) No 351/98 ⁽⁵⁾, the duty on two Brazilian exporting producers was reduced to 0 % because of a finding of no dumping.

- (2) Definitive anti-dumping measures were also imposed against imports from the People's Republic of China (China) and South Africa by Council Regulation (EC) No 621/94 in March 1994 ⁽⁶⁾.
- (3) Definitive anti-dumping duties concerning imports of FeSi originating in Egypt and Poland were imposed by Council Regulation (EEC) No 3642/92 ⁽⁷⁾. These duties lapsed as a result of Commission Decision 1999/426/EC ⁽⁸⁾, whereby it was concluded that the expiry of these measures was not likely to lead to a recurrence of injury.

2. Request for review

- (4) Following the publication of the notice of impending expiry ⁽⁹⁾ of the anti-dumping measures, the complainant in the original investigation, the Liaison Committee of the Ferro-Alloy Industry (Euroalliages, hereinafter 'the applicant'), requested an expiry review of the measures concerning Brazil, China, Kazakhstan, Russia, Ukraine and Venezuela pursuant to Article 11(2) of Regulation (EC) No 384/96 (the basic Regulation).
- (5) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission published a notice of initiation in the *Official Journal of the European Communities* ⁽¹⁰⁾ and commenced the investigation. The investigation lasted more than two years due to difficulties met in gathering certain information (in relation to the large number of countries involved and to the changes of country structure of the Community in 1995) and to the time given to the parties to present their views in relation to the complexity of the analysis of the Community interest.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 302, 9.12.1993, p. 1.

⁽⁴⁾ OJ L 3, 5.1.1994, p. 1.

⁽⁵⁾ OJ L 42, 14.2.1998, p. 1.

⁽⁶⁾ OJ L 77, 19.3.1994, p. 48.

⁽⁷⁾ OJ L 369, 18.12.1992, p. 1.

⁽⁸⁾ OJ L 166, 1.7.1999, p. 91.

⁽⁹⁾ OJ C 177, 10.6.1998, p. 4.

⁽¹⁰⁾ OJ C 382, 9.12.1998, p. 9.

- (6) No request was received to review the measures concerning South Africa and these measures, therefore, expired on 20 March 1999.

3. Investigation

- (7) The investigation of dumping covered the period from 1 October 1997 to 30 September 1998 (hereinafter the 'investigation period' or 'IP'). The examination of injury covered the period from 1994 up to the end of the IP ('analysis period').

- (8) The Commission officially advised the applicant Community producers, exporting producers and importers known to be concerned, representatives of the exporting countries concerned, as well as the applicant, of the initiation of the review investigation, and gave interested parties the opportunity to make their views known and to request a hearing within the time limit set in the notice of initiation.

The Commission sent questionnaires to all parties known to be concerned and received replies from Community producers and importers, as well as from exporting producers in the countries concerned.

A number of exporting producers in the countries concerned, as well as Community producers, Community users and one importer made their views known in writing. All parties who so requested within the above time limit, and indicated that there were particular reasons why they should be heard, were granted hearings.

- (9) The Commission sought and verified all the information deemed necessary for its investigation, and carried out verifications at the premises of the following companies:

(a) Community producers:

Ferroatlántica SL, Spain,
Pechiney Electrometallurgie, France,
Vargön Alloys AB, Sweden;

(b) importers:

Considar Europe SA, Belgium;

(c) exporting producers:

Brazil
Cia. Ferroligas Minas Gerais (Minasligas),
Cia. de Ferro Ligas da Bahia (Ferbasa) SA,
Italmagnesio Nordeste SA,
Nova Era Silicon SA,
Rima Industrial SA:
Venezuela
Ferroatlántica de Venezuela SA (Ferroven).

- (10) All the parties concerned were informed of the essential facts and considerations on the basis of which the conclusions of this review were based. They were also granted a period within which to make representations subsequent to this disclosure. The representations received, within the deadlines, were carefully considered and where deemed appropriate, taken into account for the findings.

B. PRODUCT UNDER CONSIDERATION

1. Product under consideration

- (11) The product under consideration by this investigation is the same as that concerned by the original investigation, i.e. FeSi, excluding products containing more than 4 % of magnesium. Production of FeSi takes place in electric arc furnaces by means of reducing quartz using carbon-bearing products. The product is used as a deoxidiser and as an alloying component in the iron and steel industry. FeSi is sold in the form of lumps, grains or powder and exists in various qualities depending on the silicon and the impurity content (i.e. aluminium, carbon, etc.). FeSi with a silicon content of 70 % and higher was considered as high purity, with a silicon content of more than 55 % and less than 70 % as medium purity, and with a silicon content of less than 55 % as low purity FeSi.
- (12) It was found that all different forms and qualities of FeSi exported from the countries concerned had the same basic physical and chemical characteristics and essentially the same end-uses. They were therefore considered to form a single product. The product under consideration currently falls within CN codes 7202 21 10, 7202 21 90 and 7202 29 90.

2. Like product

- (13) The vast majority of FeSi produced in the Community is high purity, i.e. FeSi with a purity of 75 % or more (FeSi 75). It was established that the FeSi produced and sold in the Brazilian and Venezuelan markets was alike within the meaning of Article 1(4) of the basic Regulation to the FeSi exported from Brazil and Venezuela to the Community as they were identical, or closely similar, in terms of physical and chemical characteristics and end uses. Furthermore, it was found that there were no basic differences in the physical and chemical characteristics and the end-uses of FeSi exported from China, Kazakhstan, Russia and Ukraine to the Community and the product produced and sold in the domestic market of the analogue country referred to in recital 24. Also, there were no differences between FeSi exported from the countries concerned and the product produced and sold by the applicant Community producers in the Community market.

C. CONTINUATION OR RECURRENCE OF DUMPING

producer shortly after the IP as discussed in recitals 80 to 84.

1. Methodology

- (14) This section explains the general methodology used to establish whether the expiry of the measures currently in force would be likely to lead to a continuation or recurrence of dumping.

General

- (15) In the case of the likely continuation of dumping, the Commission investigated the existence of dumping on exports from the countries concerned to the Community during the IP on the grounds that if dumping was taking place, then it was reasonable to consider, in the absence of indications to the contrary, that it would be likely to continue in the future should measures be repealed. These dumping calculations were made irrespective of the fact that for most of the countries under investigation the volume of exports to the Community was small. Nevertheless, it was considered appropriate to examine the general level of dumping on such volumes as this could be used as one indicator of the likelihood of the existence of dumping on larger volumes should the current measures be repealed (see recital 16).
- (16) As to the examination of the likely recurrence of dumping, i.e. the likelihood of increased exports at dumped prices should the current measures be repealed, which was necessary where the volumes from the countries concerned were relatively small, the Commission investigated (a) whether future dumping was likely and (b) whether any such dumping would take place in significant quantities. The likelihood of future dumping was assessed in relation to exports from the countries concerned to non-member countries and the question of increased volumes was addressed by examining all relevant market developments, both domestic and export, such as evolution of capacities, production, stocks and prices on the various markets.
- (17) As the purpose of this type of review is to assess the likelihood of future dumping should measures be removed, it was not considered necessary or appropriate to calculate dumping margins or allowances with the precision that would be necessary in an anti-dumping investigation carried out under Article 5 of the basic Regulation. Moreover, the detailed investigation was restricted to a sample three-month period within the investigation period, normally the last quarter, unless otherwise specified.
- (18) For Venezuela, findings based on dumping calculations were not considered determinant, due to the privatisation and takeover of the sole known Venezuelan exporting producer by a cooperating Community

- (19) The Commission has taken note that the US administration repealed their existing anti-dumping measures against imports of FeSi originating in the same countries as those subject to this proceeding in August 1999. This meant that one more market was now available to which these countries could redirect some sales.

Normal value

- (20) For Brazil, the Commission considered that the domestic sales in Brazil were sufficiently representative to permit their use for a normal value calculation.
- (21) The Commission then examined the position with regard to whether the domestic sales of each company were made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers, of each exported product type, not sold at a loss on the domestic market during the investigation period.
- (a) For those product types where more than 80 % by volume, of sales on the domestic market were not below unit costs, and where the weighted average sales price was equal to or higher than the weighted average production cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question.
- (b) For those product types where at least 10 %, but no more than 80 %, by volume, of sales on the domestic market, were not below unit costs, normal value, by product type, was calculated as the weighted average of domestic sales prices which were made at prices equal to or above unit costs only, of the type in question.
- (c) For those product types where less than 10 %, by volume, was sold on the domestic market, at a price not below unit costs, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore, normal value was constructed.
- (22) Normal values were constructed in accordance with Article 2(6) of the basic Regulation on the basis of the manufacturing cost of the type concerned to which was added an amount for selling, general and administrative expenses (SG & A) and profit. The amount for SG & A was that incurred by the producer concerned for the like product and the amount for profit equated to the weighted average profit realised by the producers concerned on sales of the like product in the ordinary course of trade.

(23) Since China, Kazakhstan, Russia and the Ukraine are considered to be non-market economy countries, it was necessary to establish a normal value by reference to a market economy non-member country, in accordance with Article 2(7) of the basic Regulation. Brazil was suggested by the applicant and mentioned in the notice of initiation. Within the time limit specified in that notice, no exporting producer expressed disagreement with this proposal, while one exporting producer in the Ukraine expressed agreement.

(24) Brazil was considered to be a reasonable choice of analogue country as it has significant production, capacity and domestic consumption. There are several domestic producers leading to strong internal competition and Brazilian domestic sales of the product concerned are significant. Furthermore, as Brazil was a party to the present investigation it was likely that Brazilian producers would cooperate in the investigation. An alternative analogue country was neither proposed nor found. In these circumstances, Brazil was chosen as the analogue country and normal values were established on the basis of the weighted average normal values established for the individual Brazilian companies by category of silicon content.

Export price

(25) The export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of export prices actually paid or payable by independent customers in the Community.

(26) Where no information was provided by the exporting producers of a specific country, or where the information provided by the exporting producers of a specific country was considered incomplete, the Commission established, pursuant to Article 18(1) of the basic Regulation, an average export price for the country on the basis of the Eurostat statistics or other facts available.

(27) In order to assess the likelihood of a recurrence of dumping, the Commission also established the export prices to customers in non-member countries.

Fair comparison

(28) For the purpose of ensuring a fair comparison between the normal value and the export price as required by Article 2(10) of the basic Regulation, the Commission took account of any differences which affected price comparability.

(29) Accordingly, allowances for differences in transport costs, ocean freight and insurance costs, handling, loading and ancillary costs, import charges and indirect taxes, packing costs, credit costs, after-sales costs, commissions, discounts and rebates, were taken into account as justified. Comparison was usually carried out on an ex-works basis. For those countries where a fob basis has been used it would have made no difference to

the outcome of the investigation if the comparison had been carried out on an ex-factory basis.

Dumping margins

(30) For assessing the existence of dumping margins a comparison was made between the weighted average normal value and the weighted average export price, by type, on an ex-factory basis in the case of the market economy countries and normally on a fob-exporting country border basis for the non-market economy countries.

2. Brazil

Likelihood of continuation of dumping

(31) Normal value was based on both domestic prices and constructed values.

(32) For one exporting producer, who had no exports during the last three months of the investigation period, normal value was determined for the preceding three months during which exports occurred, in order to allow a comparison with the prices of exports made during that period.

(33) The export price was based on the prices actually paid or payable by independent customers in the Community.

(34) Of six cooperating exporting producers, only two had sales to the Community during the investigation period, and these two were subject to a zero margin of duty.

(35) To ensure a fair comparison, both the normal values and the export prices were adjusted to an ex-factory basis.

(36) A comparison of the normal values in Brazil with export prices to the Community from that country shows little or no dumping overall. In any event, the dumping was on a very low volume of exports and there are indications that this low margin of dumping was temporary and did not continue after the investigation period.

Likelihood of recurrence of dumping

(37) This calculation of dumping entailed a comparison of normal values in Brazil with export prices to non-member countries other than the Community. Normal values were established on the basis of actual prices in Brazil and export prices were established on the basis of the prices actually paid or payable by independent customers in these non-member countries. To ensure a fair comparison these prices were adjusted to an ex-factory basis. A comparison of normal values with export prices to non-member countries showed some dumping although the information collected during the verification visits, in particular, regarding the devaluation of the Brazilian currency, showed that such dumping may not have persisted.

- (38) Account was also taken of the fact that some Brazilian exporters have been subject to a zero dumping margin for some time, i.e. one since 1994 and two more since the beginning of 1998, and this had not led to any significant increase in the level of exports to the Community.
- (39) The capacity utilisation rate of Brazilian exporting producers was high during the investigation period and the verification of the activities of the cooperating Brazilian exporting producers showed no evidence that there was any intention of significantly altering the current level and pattern of domestic sales in the foreseeable future.
- (40) With regard to sales to non-member countries, most Brazilian cooperating producers indicated that they would like to expand sales to the Far East. In fact, although the investigation showed that it would be difficult for the Brazilian producers to further develop this market owing to strong competition from Chinese suppliers and weak demand in Japan, there was no indication that Brazilian exporters would not maintain their existing market share.

Conclusion

- (41) The examination with regard to the continuation of dumping showed a very low level of dumping overall on exports to the Community. Moreover, the volumes involved were also very small. Also, there were other indicators, including a devaluation of the Brazilian currency, which make it unlikely that there will be any continuation of significant dumping in the foreseeable future.
- (42) Moreover, there was no indication that Brazilian exporters would revert to their former levels of exports to the Community. The pattern of sales domestically and for export appeared settled and was considered unlikely to change significantly in the foreseeable future.
- (43) In this respect, account was taken of the fact that some Brazilian exporters have been subject to a zero dumping margin for several years and this had not led to any significant increase in the level of exports to the Community.
- (44) Overall, therefore, it is fair to conclude that there is little likelihood that the repeal of measures would lead to renewed dumping in significant quantities from Brazil.

3. People's Republic of China

- (45) Although questionnaires were sent to 37 exporters in China, no replies were received. As a result, the findings have been made on the basis of the facts available in accordance with Article 18(1) of the basic Regulation.

Likelihood of continuation of dumping

- (46) The normal value for China was established on the basis of the normal value in the analogue country Brazil.
- (47) The export price was determined on the basis of the facts available by reference to Eurostat, i.e. the weighted average value of a low import volume from China on a cif Community frontier basis, for all grades of FeSi during the investigation period.
- (48) The normal values and export prices were put on a comparable level by adjusting both the normal value and the export price to a fob-exporting country border basis.
- (49) The analysis of normal values and export prices showed that exports from China to the Community were dumped to a significant level during the investigation period.

Likelihood of a recurrence of dumping

- (50) As no Chinese exporting producers cooperated in the investigation the likelihood of recurrence of dumping was determined on the facts available in accordance with Article 18(1) of the basic Regulation. In this case, the best information was considered to be the findings made in relation to the likelihood of continuation of dumping. On this basis, it was considered that there was a likelihood of a significant recurrence of dumping from China should measures lapse.
- (51) With no cooperation forthcoming from Chinese exporting producers the findings on whether any dumping would take place in significant volumes were based on facts available, in accordance with Article 18(1) of the basic Regulation. In this respect, the Commission obtained information from industry publications and press articles and these indicated that production in China exceeded domestic and export demand by about 250 000 tonnes per annum with the result that significant capacity and stock would be available for a resumption of significant exports to the Community should measures lapse.

Conclusion

- (52) The facts available clearly indicate the existence of significant capacities which could be directed to the Community should the current measures lapse. Moreover, the existing evidence on dumping clearly indicates that a resumption of a significant level of imports from China would be at dumped prices.

4. Kazakhstan

Likelihood of continuation of dumping

- (53) The normal value for exporting producers in Kazakhstan was established on the basis of the normal value of the analogue country Brazil.

(54) The cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content, a product type that was exported from Kazakhstan. A normal value for this type was therefore calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with low silicon content as established in Brazil.

(55) Export sales from the only known exporting producer in Kazakhstan were made to independent traders in Kazakhstan and, therefore, the Kazakh exporting producer was not certain of the ultimate destination of the FeSi sold for export. Consequently, export prices were derived from both exports purportedly declared by the Kazakh customs authorities as destined for the Community and also, on imports recorded in Eurostat. Both sets of data showed only low volumes.

(56) To ensure a fair comparison, the normal value and the export prices were compared on an ex-factory or equivalent basis.

(57) An analysis of the normal values and export prices showed the existence of dumping at substantial levels during the investigation period.

Likelihood of a recurrence of dumping

(58) The normal value for Kazakhstan was established on the basis of the normal value of the analogue country, Brazil and the export price was based on exports to non-member countries. To ensure a fair comparison, the normal value and the export prices were compared on an ex-factory or equivalent basis. This analysis showed the existence of significant dumping.

(59) The only cooperating Kazakh exporting producer known to the Commission did not indicate any change in its pattern of trade in the foreseeable future.

(60) The total FeSi production of this Kazakh exporting producer decreased by about 75 % in the period from 1995 to the investigation period. In the same period his declared capacity for FeSi production decreased by about 86 %. There were indications that the reduction in declared capacity was at least partly due to the transfer of the original capacity to the production of other products but these could be reversed. Moreover, there was other substantial unused production capacity which could be devoted to the production of FeSi in the future.

(61) In addition, although the producer indicated in his questionnaire response that the furnaces currently dedicated to FeSi production would be operating at significantly higher levels of capacity utilisation in 1999 and 2000 than during the investigation period, no conclusive evidence was provided to substantiate this assertion.

Conclusion

(62) The facts available indicate the existence of significant capacities which could be directed to the Community should the current measures lapse. Moreover, the existing evidence on dumping clearly indicates that any resumption of significant exports from Kazakhstan to the Community would be at dumped prices.

5. Russia

Likelihood of continuation of dumping

(63) Although the cooperating exporting producer initially declared that he did not export to the Community during the investigation period, some transactions to independent buyers with a freight destination in the Community were identified. The company was not certain, and it could not be established on the basis of the documents provided, if these goods remained in the Community or had their final destination outside the Community. It was therefore assumed that these specific transactions were sales to independent customers in the Community. On this basis, an examination of the likelihood of continuation of dumping was carried out. Given the fact that not all the exporters of FeSi to the Community in Russia had cooperated, a second examination of the likelihood of continuation of dumping was performed on the basis of the Eurostat import statistics.

(64) The normal value for Russia was established on the basis of the normal value of the analogue country, Brazil. As the cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content as exported by Russia, a normal value for this type had to be calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with a low silicon content established in Brazil.

(65) The only cooperating Russian producer exported his goods either directly to unrelated buyers or via a related trader in a non-member country. The sales via the related trader were not included in the examination as the relationship could have affected the level of prices charged. The export price was therefore determined on the basis of the prices actually paid or payable for the product sold to independent buyers in the Community.

(66) In view of the fact that these transactions accounted for less than half of the total imports of FeSi originating in Russia, as reported in the Eurostat statistics, average export prices were additionally established on the basis of the Eurostat statistics for the last three months of the investigation period.

- (67) To ensure a fair comparison, the normal value and export prices were in some cases adjusted to a fob-exporting country basis and in other cases to an ex-factory basis.

- (68) A comparison of the normal values and export prices showed the existence of significant dumping during the investigation period.

Likelihood of recurrence of dumping

- (69) The normal value for Russia was established on the basis of the normal value of the analogue country Brazil and the export price was based on all exports to non-member countries because the Russian exporting producer could not identify the specific destinations of its FeSi sold for export. To ensure a fair comparison the normal value and the export price were adjusted to an ex-factory level. This analysis showed the existence of significant dumping.

- (70) The exporting producer alleged that any increase in its sales would only be destined for its domestic market, Asia or the Middle East rather than the Community. However, no evidence was produced to support this claim. In any event, even if sales were increased to some of these markets the amount of unused capacity would remain very significant, i.e. in volume terms higher than the exports from Russia to the Community before the imposition of anti-dumping measures. In these circumstances, it is reasonable to assume that Russian exporters would be likely to resume exports to the Community in significant volumes should measures lapse.

Conclusion

- (71) Given that only one Russian exporting producer responded to the questionnaire, and that according to Eurostat this exporting producer represented less than half of Russian exports to the Community, the information available to the Commission was limited. The examination has shown that Russian exports were significantly dumped both to the Community and non-member countries. This dumping, together with the availability of substantial unused capacities, indicates that it is likely that the repeal of the current anti-dumping measures against imports of the product concerned originating in Russia would lead to dumping in significant volumes in the foreseeable future.

6. Ukraine

Likelihood of continuation of dumping

- (72) The cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content, a product type that is exported by Ukraine. A normal value for this type had to be calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with a low silicon content established in Brazil.

- (73) As the cooperating Ukrainian exporting producers did not report any exports during the investigation period, no export price to the Community could be established on the basis of the information provided by the companies.

- (74) However, a small volume of imports of the product concerned originating in Ukraine were recorded in Eurostat. The export prices were therefore established on the basis of the Eurostat prices of the last three months of the investigation period.

- (75) To ensure a fair comparison both the normal value and export price were adjusted to a fob-exporting country or equivalent basis.

- (76) A comparison of the normal values and export prices showed the existence of significant dumping.

Likelihood of a recurrence of dumping

- (77) The normal value for Ukraine was established on the basis of the normal value of the analogue country Brazil. The export prices were determined on the basis of the prices actually paid or payable for the product sold to independent customers in non-member markets. For one exporting producer the export prices were based on export transactions in March to May 1998, as exports for a later period were not reported. Transactions which involved 'tolling' were not taken into account. To ensure a fair comparison both normal values and export prices were adjusted to a fob-exporting country border basis. This showed the existence of significant dumping to these non-member country markets during the investigation period.

- (78) Although some evidence was produced by exporting producers that both domestic and export sales would increase somewhat and that their capacities would fall, a significant amount of the remaining nominal technical capacity would still remain available for use. While it was accepted that power and raw-material shortages may decrease the available capacity, it was still concluded that it would remain substantial and higher than the exports from Ukraine to the Community before the imposition of anti-dumping measures.

Conclusion

- (79) The examination of dumping with regard to the sales to the Community during the investigation period as well as sales to non-member country markets showed significant dumping. This factor, as well as the level of unused capacities, indicates that there is a likelihood that the repeal of the current anti-dumping measures against imports of the product concerned from Ukraine would lead to a continuation of dumping and a recurrence of dumping in additional significant volumes.

7. Venezuela

Likelihood of a continuation or recurrence of dumping

- (80) The only known Venezuelan exporting producer in the IP (Fesilven) cooperated with the investigation. Some dumping was observed during the IP.
- (81) However, Fesilven was privatised by the Venezuelan Government on 4 December 1998, i.e. after the end of the IP. As a result, the company came under the direct control of one of the cooperating Community producers, Ferroatlántica SL, and was renamed Ferroven.
- (82) The new management of Ferroven claimed that there was no likelihood of a recurrence of injurious dumping from the new company, because fundamental changes had resulted from the takeover of the assets of the old company: these were, *inter alia*:
- a change from a State-owned and subsidised company to one operating on a market economy basis and driven by the need to make profits,
 - the sales policy would be managed by Ferroatlántica SL in Spain whereby the logistical advantages of selling in the Americas would be exploited rather than selling at dumped prices on other markets, such as the Community,
 - sales on the Community market would only occur where demand could not be met by Ferroatlántica SL's own production, and prices would be the same as those of the Spanish company in order to maintain the parent company's position on the Community market.
- (83) This claim was examined by the Commission by first looking at the takeover contract between the Community producer and the Venezuelan Government which clearly stated that the new company shall operate under the key principles of 'free enterprise' and 'free competition'. At the verification visit, the Commission noted that four directors from Ferroatlántica had been installed within Ferroven in order to implement parent company procedures in respect of commercial policy, accounting, product quality and production efficiency. In

addition, raw material and energy costs were now being sourced and paid for according to normal market conditions.

- (84) The Commission further examined whether Ferroven had sufficient spare capacity, after privatisation, to supply large volumes of exports to the Community. It was concluded that significant spare capacity would still be available. However, it is clear that the Venezuelan exporting producer has genuine logistical advantages over most other world producers in terms of sales to the American markets. In this respect, it has been established that the producer concerned sold most of its total turnover of FeSi on its domestic market and in the Americas. None of these sales was directed to the large US market (with a volume of around 490 000 tonnes per annum) for which, as explained in recital 19, anti-dumping duties expired in August 1999.

Conclusion

- (85) Although some dumping was observed during the IP, a proper assessment of the future Venezuelan export volumes and prices to the Community cannot be carried out without taking into account the situation of Ferroven's parent company, i.e. Ferroatlántica SL. This was examined in the context of the likelihood of a continuation or recurrence of injury and it was found that the situation as found in the IP had changed substantially to an extent that any dumping findings for the IP may not prove representative for the future. In view of the injury findings it was not considered necessary to draw any final conclusions as to a likelihood of a continuation or recurrence of dumping.

D. SITUATION IN THE COMMUNITY MARKET FOR FESI

1. Preliminary remarks

- (86) In order to ensure that comparable information was used over the analysis period, Austria, Finland and Sweden were considered as being part of the Community market in 1994.
- (87) The applicant pointed out that Eurostat data did not cover imports into these countries for the year 1994 and suggested that national statistics should be used for these countries. However, on the basis of the export/import statistics of the Community and the three new Member States, the trade flows between the Community and these three countries could not be reconciled. Figures on Community imports to these three countries for the year 1994 were, therefore, disregarded. Consumption for 1994 in these three countries was established as outlined in recital 88.

2. Community consumption

- (88) For 1995 and the subsequent period, consumption was established on the basis of complete Eurostat import statistics for the 15 Member States as well as information on sales of the Community industry and other producers. For 1994, owing to the lack of reliable information on imports into Austria, Finland and Sweden, consumption in these countries was estimated on the basis of their steel production. Consumption in the other 12 Member States was established on the basis of verified data of sales provided by the Community industry, information on production of other Community producers as shown in the complaint and import volumes obtained using Eurostat data.
- (89) Consumption increased by 26 % over the analysis period, from around 505 000 tonnes in 1994 to slightly less than 639 000 tonnes in the IP.

	1994	1995	1996	1997	IP
Community consumption (tonnes)	505 261	573 564	572 717	625 193	638 790
Index	100	114	113	124	126

3. Imports concerned

Preliminary remark

- (90) Bearing in mind the above findings of no likelihood of continuation or recurrence of dumping for Brazil, the examination of a likelihood of continuation or recurrence of injury, relating to imports originating in Brazil, is not pursued.

Volumes and market shares

- (91) Based on information from Eurostat, imports during the analysis period from China, Ukraine and Kazakhstan were very low, imports from Russia and Venezuela varied across years but remained small in relation to consumption (respectively 0,4 % and 1,6 % in the IP). In total, imports from the countries concerned had a market share of 2,1 % in the IP.

(in tonnes)	
Import volumes	IP
Venezuela	10 381
China	172
Russia	2 681
Ukraine	146
Kazakhstan	206
Total countries concerned	13 586

Prices

- (92) On the basis of Eurostat information, cif prices of imports (duties unpaid) in EUR/tonne, were the following during the IP: Venezuela 434, China 471, Russia 447, Ukraine 421 and Kazakhstan 413. These prices were well below the average price of total imports (EUR 629/t).
- (93) As import volumes from the countries concerned were very low and there was a lack of information on prices of the exporting producers concerned due to a substantial non cooperation in this investigation, it was not possible to carry out meaningful undercutting calculations.

4. Imports from other non-member countries

- (94) Imports from Norway accounted for 52 % of the Community market in the IP. In the same period, other imports had a share of 29,8 %. Poland, the Slovak Republic, the Former Yugoslavian Republic of Macedonia and Egypt were the most important other exporting countries. Brazil had a market share of 0,9 %.

Origin of FeSi	Volume in tonnes in the IP	cif prices in the IP (in EUR/t)
Norway	329 824	666
Egypt	22 993	574
Poland	36 650	560
Slovak Republic	35 316	552
Former Yugoslav Republic of Macedonia	30 875	552
Brazil	5 759	676
Other imports	125 269	581

- (95) The investigation has shown that imports from Norway dominate the Community market owing to the very large volume involved. The price of these imports has been comparable with those of the Community industry. Imports from Poland, the Slovak Republic, Former Yugoslav Republic of Macedonia and Egypt are also at significant levels, with lower prices. Imports from Brazil are fairly low in volume, although they were made at higher prices than those of the Community industry.

5. Situation of the Community industry

Preliminary remarks

- (96) The examination of the impact of the concerned imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry. However, certain factors, mentioned in Article 3(5) of the basic Regulation, are not dealt with in detail below because they were found not to be relevant for the situation of the Community industry in the course of this investigation. It should finally be noted that none of these factors necessarily gives decisive guidance.

Definition of the Community industry

- (97) In 1993/1994, i.e. at the completion of the previous investigations covering the countries concerned, the applicant Community industry consisted of three producers: Pechiney Electrometallurgie, France; SKW Trostberg AG, Germany, and Carbuos Metálicos (now Ferroatlántica SL), Spain. A fourth Community company was also producing at that time: Industria Elettrica Indel SpA, Italy. At least three further producers existed at the beginning of the analysis periods (1987/1988) concerning these previous investigations: Ferrolegerungswerk Lippendorf GmbH, Germany, Officine Elettrochimiche Trentine, Italy and Utilizzazzioni Elettro Industriali (UEI), Italy.
- (98) After the imposition of the measures under review, the structure of the Community industry changed. Firstly, on Sweden's accession to the EC in 1995, Vargön Alloys AB, Sweden became a Community producer (having produced FeSi for many years). Secondly, several companies ceased production or merged with others, resulting in there being only three Community producers of FeSi in the IP. The present expiry review was requested on behalf of these three producers representing total Community production of the product concerned. The three applicant Community producers (Ferroatlántica in Spain, Pechiney Electrometallurgie in France and Vargön Alloys AB in Sweden,) cooperated in the investigation and responded to the Commission's questionnaire. These companies constitute the Community industry.

Sales volume, market share and growth

- (99) While the sales volume of the Community industry increased by 21 % over the analysis period, its market share fell by 5 %, it is, therefore, clear that this industry's growth was less than the increase in consumption.

	1994	1995	1996	1997	IP
Sales in the Community (tonnes)	87 454	100 390	98 098	105 939	105 470
Index	100	115	112	121	121
Market share	17,3 %	17,5 %	17,1 %	16,9 %	16,5 %
Index of market share	100	101	99	98	95

Production, capacity and capacity utilisation

- (100) As can be seen from the table below, both the production and the capacity of the Community industry rose over the analysis period and capacity utilisation increased by 6 %.

	1994	1995	1996	1997	IP
Production (tonnes)	93 188	100 757	96 004	107 081	102 644
Production capacity (tonnes)	141 700	141 200	144 800	142 100	147 300
Capacity utilisation	66 %	71 %	66 %	75 %	70 %
Index of capacity utilisation	100	108	100	114	106

Cost of production

- (101) FeSi 75 was chosen for cost analysis in order to establish a reliable trend, given the fact that the product mix for other FeSi qualities evolved across time. As can be seen from the table below, unit costs per tonne of FeSi 75 (which accounts for the vast majority of the product concerned) increased by 4 % over the analysis period.

	1994	1995	1996	1997	IP
Cost of production of FeSi 75 (ECU/EUR)	60 013	65 291	65 955	61 517	62 001
Production of FeSi 75 (tonnes)	93 188	100 757	96 004	95 111	92 763
Cost of production per tonne (ECU/EUR)	644	648	687	647	668
Index of cost of production per tonne	100	101	107	100	104

Employment

- (102) The table below shows that from 1994 to the end of the IP, the Community industry shed 9 % of its labour force in terms of employees directly involved in the FeSi industry. Around 15 % of the Community industry's employees are directly employed in the production of FeSi.

	1994	1995	1996	1997	IP
Total company employees	2 646	2 813	2 691	2 286	2 265
Index	100	106	102	86	86
Employees directly related to FeSi	368	358	345	339	336
Index	100	97	94	92	91

Productivity

- (103) As can be seen from the table below, production per employee (labour productivity) increased by 21 % over the analysis period owing both to the increase in production and a reduction in employment.

	1994	1995	1996	1997	IP
Production in tonnes per employee	253	281	278	316	305
Index of productivity per employee	100	111	110	125	121

Price development

- (104) An analysis of average sales prices of the Community industry was made by reference to the total value and volume of sales of FeSi 75 to unrelated customers (in order to have trends on a consistent indicator as explained for costs above). Sales prices increased by 6 % during the analysis period. It is to be noted that prices rose by 21 % between 1994 and 1996 and then fell by 12 % between 1996 and the IP.

	1994	1995	1996	1997	IP
Prices (ECU/tonne)	622	699	753	701	659
Index	100	113	121	113	106

Profits

- (105) As shown below, profitability rose from 1994 to 1996 but, for the remainder of the analysis period, fell mainly owing to a fall in prices.

	1994	1995	1996	1997	IP
Ratio of net return on sales to net turnover	8,1 %	10,1 %	11,2 %	7,6 %	4,1 %

Other economic indicators

- (106) Community industry investments were for repairs etc. rather than major programmes of new installations of furnaces. No injury trend could be identified from the fluctuating investment figures. In addition stocks and wages were reasonably stable over the analysis period and they did not show injurious trends. The impact on the Community industry of the magnitude of the actual margin of dumping, was not considered relevant given the low volume of imports.
- (107) No detailed analysis was carried out on cash flow, ability to raise capital (or investments), investment and return on investments because such an analysis would relate to the situation of the companies as a whole. As, on average, other business lines represent more than 50 % of Community industry turnover an overall analysis would not necessarily be representative for the product under consideration.

6. Conclusion

- (108) The Community industry has benefited from a rise in its unit prices of FeSi from 1994 to 1996 but, at the end of the analysis period, a fall in prices and a rise in the cost of production significantly reduced its profit margins. Although demand in the Community increased over the analysis period, due to developments in the steel industry, the Community industry's market share decreased by 5 %.

- (109) It is to be noted that imports from the countries concerned remained at a market share of around 2 % over the analysis period. In contrast, imports originating in Norway reached a market share of more than 50 % in the IP and imports from other non-member countries had a market share of approximately 30 %.
- (110) It was, therefore, considered that the situation of the Community industry was weaker in the IP compared to the beginning of the analysis period.

E. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

1. Preliminary remark

- (111) For confidentiality reasons some of the production capacities, sales volumes and prices of the cooperating exporting producers have been approximated or summarised.

2. Analysis of the situation of the exporting producers from the countries concerned

Venezuela

- (112) As mentioned in recital 81, Fesilven was privatised by the Venezuelan Government on 4 December 1998, i.e. after the IP.
- (113) The investigation has shown that Fesilven continued to sell on the Community market during the IP at prices which, even taking into account the anti-dumping duties applicable, were below those of the Community industry.
- (114) However, the new management of Ferroven and its parent company Ferroatlántica also claimed that they did not intend to sell FeSi produced in Venezuela at low prices on the Community market. It was claimed that it was intended to use FeSi produced in Venezuela to supply the Americas, and maintain Spanish production to supply the Community market. These claims were considered perfectly acceptable as the Community producer demonstrated that its investments in production facilities had been maintained and it would be unlikely to sell at low prices on its own market to jeopardise this investment. It would indeed, be considered normal economic behaviour that a Community producer would act to maintain prices on its own market, whilst maximising margins on sales of FeSi produced in Venezuela.
- (115) Furthermore, as mentioned in recital 84, from August 1999, the large US market has been a new outlet for Ferroven.

Conclusion

- (116) Although it could not be discounted that imports from Venezuela to the Community would take place, it was not likely that such exports would be at prices and volumes which would cause material injury. It is, therefore, concluded that a recurrence of injury involving imports of FeSi produced by Ferroven is not likely.

China, Kazakhstan, Russia and Ukraine

Likely export prices

- (117) Despite the fact that volumes traded during the IP were in too small quantities to carry significant undercutting calculations, the cif prices of these imports were significantly lower than the Community industry prices. Prices of exports originating in these countries to other non-member countries, converted to a constructed cif Community border price were also significantly lower than the Community industry prices. Furthermore, it was concluded on recitals 52, 62, 71 and 79 that there is a likelihood of recurrence of dumping from these countries should measures be allowed to lapse. It can therefore be concluded that prices of exports from these countries to the Community market are likely to be dumped and to undercut significantly Community industry prices should measures lapse.

Likely export volumes

- (118) The Commission examined the availability of stocks and capacities for each of the countries concerned.
- (119) As concluded in recital 51, based on facts available, significant capacity and stocks would be available in China for a resumption of significant exports to the Community should measures lapse.
- (120) As indicated in recitals 60 to 62, the sole known Kazakh exporting producer had significant potential and actual spare capacity which could be used to produce FeSi for export to the Community.
- (121) In recital 70, it was noted that there were substantial unused capacities in Russia which could be directed to the Community should the measures expire.
- (122) As mentioned in recital 78, substantial spare capacity exists in Ukraine which could be used to produce additional FeSi for export to the Community.
- (123) It was further noted that a part of the production capacity available in Kazakhstan and Russia may be converted to produce other ferro alloys such as ferrochrome, especially in view of the fact that anti-dumping measures applicable to imports into the Community of ferrochrome originating in these countries expired on 25 March 2000 ⁽¹⁾. However, it was considered that there would still be substantial capacity which could be directed to FeSi production for export from these countries.
- (124) As mentioned in recital 19, imports originating in China, Kazakhstan, Russia and Ukraine were no longer subject to anti-dumping measures when entering the US market from August 1999. Given the size of the US market and the price level prevailing thereon, there appears to be some scope for an increase in imports originating in those countries into the US, particularly bearing in mind the very low level of imports prevailing until the decision of the US authorities to repeal the measures. Nevertheless, this would still leave important capacities available for exports to the Community market.

Conclusion

- (125) In view of the findings of continuation and recurrence of dumping, of the large existing capacities in China, Kazakhstan, Russia and Ukraine, and despite the different factors that may reduce the capacities available for export to the Community as described above, the Commission concluded that imports at dumped prices originating in these countries into the Community market may significantly increase should measures expire.

3. Conclusion on the likelihood of recurrence of injury for the Community industry

- (126) The Community market for FeSi is predicted to remain relatively stable in the medium term, reflecting the fact that the demand is almost completely linked to the production of steel. The Community industry accounted for 16,5 % of the market during the IP, and its total capacity would have allowed it a maximum share of 23 %.
- (127) The current market share of the Community industry could be eroded in case of a repeal of the measures owing to increased import volumes. However, it is difficult to estimate the extent to which this would happen.

⁽¹⁾ OJ L 76, 25.3.2000, p. 23.

Firstly, because of quality and security of supply considerations, the user industry has claimed that it would continue to source some FeSi from the Community industry, even in the event of a repeal of the measures. Although no firm conclusion could be reached with respect to this claim, the fact that three significant Brazilian exporting producers did not increase exports to the Community when they became subject to a 0 % dumping duty would appear to support this claim by the user industry.

Secondly, as mentioned above, the main player on the Community market is Norway. The reaction by Norwegian exporting producers to an increased import volume from the countries concerned will be determinant for the respective positions of all players on the Community market.

- (128) As a relatively minor operator on the Community market, the main problem for the Community industry would be the development of sales prices, which, in turn, would have an immediate effect on profitability. Whereas it is clear that, if measures were allowed to lapse, the price pressure exercised by imports from the countries concerned would increase, the effects on the Community industry of such developments are unclear. This is owing to the fact that, as mentioned above, the user industry could still continue to source FeSi from the Community industry.
- (129) In the light of the findings of a likelihood of continuation and recurrence of dumping, and of the findings that dumped imports originating in China, Kazakhstan, Russia and Ukraine may significantly increase should measures be allowed to lapse, it is concluded that the situation of the Community industry would deteriorate. Even though the extent of this deterioration is difficult to evaluate, taking into account the declining trends in prices and profitability of this industry, it is none the less likely that injury will recur. In respect of Venezuela, should measures be allowed to lapse, there is unlikely to be any material injurious effect.

F. COMMUNITY INTEREST

1. General considerations

- (130) The Commission examined whether the maintenance of the anti-dumping measures would be in the overall interest of the Community.
- (131) It is recalled that the anti-dumping measures have been in force on imports of FeSi originating in Venezuela since 1983, Brazil, Kazakhstan, Russia and the Ukraine since 1987 and China since 1993.
- (132) The situation of the Community industry since 1994 is described in full in recitals 96 to 110. However, an analysis of the period 1987 to the IP was made in order to assess whether the Community interest called for a continuation of measures or not and in particular what would be the effect of one or the other possibility on the situation of the Community industry in the future. The purpose of this assessment was to show the effects of the anti-dumping measures on the overall development of the Community industry over the period in which measures have been in place.
- (133) The applicant questioned this approach, pointing out that it was not until 1993/1994 that all six of the countries concerned were subject to measures. Furthermore, the applicant noted that, before 1993/1994, as stated in Regulation (EC) No 3359/93, the measures in place were not fully effective in protecting the Community industry from dumped imports.
- (134) In this respect, it is clear to the Commission that the situation of the Community industry in 1993/1994 had deteriorated compared to previous years. In the present investigation, however, the Commission analysed whether the added protection had enabled the industry to reverse the earlier unfavourable trends and an examination of this earlier period was, therefore, justified.

2. The Community industry

Change in the situation of the Community industry

- (135) As noted in recital 97 the Community industry was comprised of at least eight companies in 1987. It is also necessary to take into account the production of FeSi in the former Democratic Republic of Germany before German reunification in 1990, and in Sweden before its accession to the Community in 1995. Taking into account the different information published in relation to previous proceedings as well as data supplied by the applicant, the Commission estimated that in 1987 the 'reconstructed' Community production (i.e. taking into account all producers located in the Community of 15 Member States) was at least 200 000 tonnes. As production levels fell to 103 000 tonnes in the IP, this would indicate a decrease of approximately 50 % since 1987 (and an even more important loss of market share, as the market size is estimated to have grown by at least 20 % since then).
- (136) This loss in production and market share (on the basis of the reconstructed figures as described above) can be explained, among other factors, by the fact that, by the end of the IP, only three companies remained active. Despite the fact that the production of these three companies slightly increased from 1994 to the IP, as described in recital 100, it should be noted that their market share and employment figures showed that the downward trends experienced between 1987 and 1994 continued during the analysis period. In this respect it should be noted that taking into account the two Community producers, which still existed in 1994 but not in the IP, would show even more negative trends. In contrast, it should be noted, that imports originating in Norway have gained around 20 percentage points market share from 1987 to the IP.

Impact of the continuation of the measures

- (137) The reduction in the number of Community producers of FeSi resulted from companies ceasing production and from mergers/acquisitions. Despite these changes, the Community industry was in a weaker situation during the IP compared to 1987 and to 1994.
- (138) Furthermore, this continued decline occurred during a long period when anti-dumping duties applied. In this respect, the Commission found that the further relief given by Regulation (EC) No 3359/93 in 1993 for a period of five years, together with the relief afforded by Regulation (EC) No 621/94 in 1994, did not have the expected remedial effects on the Community industry. Indeed, among other effects analysed in these Regulations, measures were supposed to enable the Community industry to compete on a level playing field with the dumped imports so as to prevent further injury in terms of closure of companies, the decrease in personnel employed and a further loss in market share, etc. It is clear that the downsizing of the industry continued despite the measures.
- (139) The applicant mentioned several indicators which showed that, since 1994, the Community industry had benefited from the measures, especially as regards capacity utilisation, productivity and profits. The Commission noted that this improvement has to be seen mostly in relation to the restructuring and downsizing of the Community industry. Indeed, despite the fact that imports from the countries concerned were in small quantities, the investigation showed that there had been the closure of two companies, a reduction of 9 % of employment in the remaining three companies, a reduction in market share, and a deterioration of profits by the end of the analysis period. It was, therefore, concluded that the expected remedial effects were not obtained.
- (140) In this light, the Commission concluded that the Community industry was not able to benefit from measures that were obviously efficient, at least from 1994 onwards. That the Community industry would benefit from the continuation of measures for a further period of five years was therefore unwarranted.

Impact of the expiry of the measures

- (141) In recitals 126 to 130, the Commission analysed the impact on the Community industry should measures for the countries concerned expire. It was concluded that, in such a case, the most important impact on the situation of the Community industry would arise from a general downward pressure on prices that would be exerted by dumped imports. In such circumstances, the Community industry would face a decreasing profitability that might lead to decisions to reduce production of FeSi in the Community. However, the extent to which the situation of the Community industry could deteriorate was difficult to evaluate precisely; notably in view of the need expressed by users to keep secure sources of supply in the Community.

3. Impact on importers

- (142) The Commission considered the interests of importers of FeSi from the countries concerned in the Community and received a valid questionnaire response from one company. The investigation showed that there was a considerable potential for increase in the turnover of this company should the measures lapse.
- (143) On the basis of the above, and in the absence of any arguments to the contrary, the Commission concluded that the expiry of measures would have a positive impact on the importing companies concerned because of the potential for significant positive developments in turnover. However, the paucity of responding importers meant that this information was not considered decisive in the Community interest analysis.

4. Impact on users

- (144) On the Community market, FeSi is used almost entirely for the production of steel and cast iron. It is used either to introduce silicon as an alloying element in the manufacture of high quality steel products, or as a deoxidising agent.
- (145) The Commission received information from five users and from one user association. On the basis of their questionnaire responses, it was found that, in 1998, FeSi inputs represented 0,86 % of the manufacturing costs of these companies. The Commission cross-checked this information with publicly available statistics and considered it reasonable to estimate that FeSi costs represented, on average, 0,8 % of the manufacturing costs for the user industries during the IP. This estimate was slightly lower than the estimate provided by the applicant.
- (146) The user association claimed that it was important, from the point of view of competition on the Community market, that the measures should expire. This was because the measures had almost eliminated FeSi imports originating in China, Ukraine, Russia and Kazakhstan and had reduced imported volumes from Brazil and Venezuela to very low levels. The users explained that the current measures significantly limited the user industry's sources of supply and kept prices at an artificially high level on the Community market. Furthermore, they explained that Community steel producers were currently at a competitive disadvantage when compared to steel producers outside the Community, which were able to procure FeSi free of anti-dumping duties.
- (147) In examining these claims, the Commission considered the following:
- the expiry of measures would lead to an increased number of suppliers on the Community market, which would clearly be to the advantage of the Community steel producers which would benefit from lower costs,
 - it has been found that prices of FeSi on the US market dropped by 15 % after the removal of anti-dumping measures in 1999. If the repeal of anti-dumping measures in the Community has the same effect on FeSi prices as in the US market, the Community steel industry could save up to 15 % of its FeSi costs, i.e. around EUR 60 million (15 % of a Community FeSi market of EUR 406 million during the IP).

- (148) The applicant claimed that the Commission deviated from its current practice in assessing costs incurred by the FeSi users resulting from the imposition of measures, especially since, in its opinion, costs of an equivalent level have been considered negligible in the context of certain other anti-dumping investigations. The applicant also alleged that, in the current FeSi investigation, these costs were not disproportionate in comparison to the benefit of the measures as expected for the Community industry.
- (149) The Commission considered that, by definition, reviews, such as the present one, require an assessment of the effect of measures in place. The fact that measures have been in force, for the majority of the countries concerned, for more than a five-year period cannot be ignored (for instance measures involving Venezuela have been in place since 1983). In the present case, the length of the period during which measures have been in place, has led the Commission to take into account that users have had to bear additional costs linked to measures for many years. In this respect, it was reasonable, to add as an element in the examination of the various interests involved, the assessment of the impact of the measures on the users over the period during which they have been in place.
- (150) The Commission also noted that, although there were several indicators showing that the proportion of FeSi in costs of the user industries has increased between 1994 and 1998, these costs remained fairly limited as described in recital 146. Although it is clear that, on an annual basis, anti-dumping measures increased these costs only marginally, since users have had to bear this increase in costs for many years, there is a material cumulative effect of the measures which should be taken into account.

5. Conclusion on Community interest

- (151) From the foregoing, it is clear that the Community industry has not been capable of benefiting sufficiently from the measures in place since 1987. This is evidenced by its failure to strengthen, or even maintain, its position on the Community market even though, following the adoption of anti-dumping measures, imports from the countries concerned almost disappeared from the Community market. The Community industry was also unable to benefit in terms of taking market share from the demise of former Community producers. In this context, it is noteworthy that the loss in the Community market share, over this period, is reflected by the gain in the share of the Norwegian exporting producers that offer qualities, prices and security of supply of FeSi similar to those of the Community industry.
- (152) It has also to be borne in mind that throughout this long period of anti-dumping measures, Community steel producers have had to bear negative effects, in the form of additional costs brought by the measures in particular when cumulated over the time period of validity of the anti-dumping measures under review.
- (153) Thus, while the precise impact of the expiry of measures on the Community industry is uncertain and while past experience shows that it is not guaranteed that maintaining measures will provide sizeable benefits to the Community industry; it is clear that the steel industry has experienced long-term cumulated negative effects which would be unduly prolonged if measures were maintained.
- (154) Therefore, after an appreciation of the impact of the continuation or expiry of the measures on the various interests involved, as required by Article 21 of the basic Regulation, the Commission could clearly conclude that maintaining the existing measures would be contrary to the interests of the Community. The measures should, therefore, be allowed to expire.

G. TERMINATION OF THE PROCEEDING

- (155) It is concluded, therefore, that this proceeding should be terminated and that the anti-dumping measures adopted on 9 December 1993 by Regulation (EC) No 3359/93 and 19 March 1994 by Regulation (EC) No 621/94 should be allowed to expire,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of ferro-silicon falling within CN codes 7202 21 10, 7202 21 90 and 7202 29 90 originating in Brazil, the People's Republic of China, Kazakhstan, Russia, Ukraine and Venezuela is hereby terminated.

Done at Brussels, 21 February 2001.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION DECISION

of 13 March 2001

making it possible for Member States to extend provisional authorisations granted for the new active substances IKI 1145; TO 1145 (fosthiazate), CGA 329351 (metalaxyl-m), MON 37500 (sulfo-sulfuron) and *Spodoptera exigua* nuclear polyhedrosis virus

(notified under document number C(2001) 698)

(Text with EEA relevance)

(2001/231/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, as last amended by Commission Directive 2000/80/EC of 4 December 2000 ⁽²⁾, and in particular Article 8(1) fourth subparagraph thereof,

Whereas:

- (1) Directive 91/414/EEC (hereinafter 'the Directive') has provided for the development of a Community list of active substances authorised for use in plant protection products.
- (2) The applicant ISK Biosciences submitted a dossier seeking the inclusion in this list for the new active substance IKI 1145; TO 1145 (fosthiazate) to the United Kingdom on 5 March 1996.
- (3) The applicant Novartis Crop protection Ag. submitted a dossier seeking the inclusion in this list for the new active substance CGA 329351 (metalaxyl-m) to Belgium on 9 February 1996.
- (4) The applicant Monsanto submitted a dossier seeking the inclusion in this list for the new active substance MON 37500 (sulfosulfuron) to Ireland on 24 April 1997.
- (5) The applicant Biosys submitted a dossier seeking the inclusion in this list for the new active substance *Spodoptera exigua* nuclear polyhedrosis virus to the Netherlands on 12 July 1996.
- (6) In accordance with the provisions of Article 6(3) of the Directive, the Commission confirmed in its Decision 97/362/EC ⁽³⁾ that the dossier submitted for IKI 1145; TO 1145 (fosthiazate) could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.
- (7) In accordance with the provisions of Article 6(3) of the Directive, the Commission confirmed in its Decision 97/591/EC ⁽⁴⁾ that the dossier submitted for CGA

329351 (metalaxyl-m) could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.

- (8) In accordance with the provisions of Article 6(3) of the Directive, the Commission confirmed in its Decision 97/865/EC ⁽⁵⁾ that the dossier submitted for MON 37500 (sulfosulfuron) could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.
- (9) In accordance with the provisions of Article 6(3) of the Directive, the Commission confirmed in its Decision 97/865/EC that the dossier submitted for *Spodoptera exigua* nuclear polyhedrosis virus could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.
- (10) Such confirmation of data and information is necessary to permit a detailed examination of the dossier and to allow Member States the possibility of granting provisional authorisations, for a period up to three years, for plant protection products containing the active substances concerned, while complying with the conditions laid down in Article 8(1) of the Directive and, in particular, the condition relating to the detailed assessment of the active substance and the plant protection product in the light of the requirements laid down by the Directive.
- (11) For IKI 1145; TO 1145 (fosthiazate) the effects on human health and the environment are being assessed, in accordance with the provisions of Article 6(2) and (4) of the Directive, for the uses proposed by the applicant. The United Kingdom acting as nominated rapporteur Member State submitted to the Commission on 18 March 1998 the draft assessment report concerned. The submitted report is being reviewed by the Member States and the Commission within the framework of the Standing Committee on Plant Health and in working groups thereof.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 309, 9.12.2000, p. 14.

⁽³⁾ OJ L 152, 11.6.1997, p. 31.

⁽⁴⁾ OJ L 239, 30.8.1997, p. 48.

⁽⁵⁾ OJ L 351, 23.12.1997, p. 67.

- (12) For CGA 329351 (metalaxyl-m), the effects on human health and the environment are being assessed, in accordance with the provisions of Article 6(2) and (4) of the Directive, for the uses proposed by the applicant. Belgium acting as nominated rapporteur Member State submitted to the Commission on 27 July 1999 the draft assessment report concerned. The submitted report is being reviewed by the Member States and the Commission within the framework of the Standing Committee on Plant Health and in working groups thereof.
- (13) For MON 37500 (sulfosulfuron), the effects on human health and the environment are being assessed, in accordance with the provisions of article 6(2) and (4) of the Directive, for the uses proposed by the applicant. Ireland acting as nominated rapporteur Member State submitted to the Commission on 2 April 1998 the draft assessment report concerned. The submitted report is being reviewed by the Member States and the Commission within the framework of the Standing Committee on Plant Health and in working groups thereof.
- (14) For *Spodoptera exigua* nuclear polyhedrosis virus, the effects on human health and the environment are being assessed, in accordance with the provisions of Article 6(2) and (4) of the Directive, for the uses proposed by the applicant. The Netherlands acting as nominated rapporteur Member State submitted to the Commission on 19 November 1999 the draft assessment report concerned. The submitted reports is being reviewed by the Member States and the Commission within the framework of the Standing Committee on Plant Health and in working groups thereof.
- (15) It has not been possible to complete the evaluation of these dossiers within three years of the adoption of the decisions on completeness referred to. In the case of fosthiazate there has been a lengthy and in-depth examination of questions relating to operator exposure and fate in the environment. In the case of metalaxyl-m the issue of fate in the environment has been the subject of much discussion. For sulfosulfuron there has been an in-depth examination of an issue relating to mammalian toxicology. For *Spodoptera exigua* nuclear polyhedrosis virus, the risk assessments for human health and the environment have been the subject of lengthy examination and discussions.
- (16) The United Kingdom granted the first provisional authorisation for IKI 1145; TO 1145 (fosthiazate) on 25 February 1998 which will expire on 25 February 2001.
- (17) Belgium granted the first provisional authorisation for CGA 329351 (metalaxyl-m) on 20 January 1998 which will expire on 20 January 2001.
- (18) Ireland granted the first provisional authorisation for MON 37500 (sulfosulfuron) on 16 February 1998 which will expire on 16 February 2001.
- (19) The Netherlands granted the first provisional authorisation for *Spodoptera exigua* nuclear polyhedrosis virus on 1 December 1997 which will expire on 1 December 2000.
- (20) Member States should be given the possibility to prolong provisional authorisations of plant protection products containing these active substances for a period of 12 months in accordance with the provisions of Article 8 of the Directive so as to enable examination of the dossiers to continue.
- (21) Provisional authorisations may only be maintained if the Member State concerned has established that the active substance can still satisfy the safety requirements of Article 5(1) of the Directive and that the plant protection product may be expected to satisfy the requirements of Article 4(1) points (b) to (f).
- (22) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Member States may extend provisional authorisations for plant protection products containing IKI 1145; TO 1145 (fosthiazate), CGA 329351 (metalaxyl-m), MON 37500 (sulfosulfuron) and *Spodoptera exigua* nuclear polyhedrosis virus for a period not exceeding 12 months from the date of adoption of this Decision.

Article 2

The present Decision is addressed to the Member States.

Done at Brussels, 13 March 2001.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 13 March 2001
concerning a draft regulation of the Kingdom of the Netherlands on the labelling of poultrymeat

(notified under document number C(2001) 704)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2001/232/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽¹⁾, and in particular Article 19, fourth paragraph, and Article 20 thereof,

Whereas:

- (1) In accordance with the procedure laid down in Article 19, second paragraph, of Directive 2000/13/EC, the Netherlands authorities notified the Commission of a draft regulation containing specific labelling provisions applicable in certain circumstances to poultrymeat put up for retail sale in the Netherlands.
- (2) Under Article 1(c) of the aforesaid draft regulation, poultrymeat in which *Salmonella* or *Campylobacter* is demonstrably present in 25 grams may be presented, put up for sale sold or supplied only if it is prepacked and labelled with a warning to the effect that the product contains bacteria which can cause disease and that care should be taken to ensure that the bacteria do not reach the consumer through packaging, handling or kitchen utensils, and that the meat must be well cooked in order to kill the bacteria.
- (3) As provided for in Article 19, second paragraph, of Directive 2000/13/EC, the Commission consulted the other Member States within the Standing Committee on Foodstuffs.
- (4) The Member States and the Commission agree fully with the Netherlands on the need to protect consumers against infection by *Salmonella* and *Campylobacter*. This objective may be attained by appropriate preventive measures, particularly in regard to hygiene, at the different stages of product processing, and by educating and informing the final consumer in a suitably unambiguous manner.

- (5) Furthermore, a labelling measure in the form of a warning and recommendations to consumers may also help towards attaining the desired objective in so far as it offers guarantees of reliability and can be implemented in a way which can be easily understood by consumers.
- (6) However, the draft regulation submitted by the Netherlands does not meet the abovementioned conditions, as implementation thereof raises questions and could give rise to confusion or misunderstanding on the part of consumers. In particular, since packaging and labelling are only compulsory for contaminated poultry meat, only an exhaustive inspection prior to marketing would ensure the reliability of the measure. In reality, as no specific inspection system is planned, it is possible that a proportion of the contaminated products will not be detected, and therefore not labelled, and that products which are not contaminated at the production stage may be contaminated at the distribution stage, yet will not be labelled.
- (7) There is therefore a significant risk that consumers choosing an unlabelled product, thinking it to be free of contamination, may in fact be in possession of a contaminated product but believe that they need take no precautions.
- (8) Furthermore, the wording envisaged for the warning is complex and liable to be misunderstood by some consumers, particularly with regard to the fact that contaminated products are offered for sale.
- (9) The abovementioned difficulties could be avoided, and the objective attained more readily, if the Netherlands authorities applied the draft regulation notified to all poultrymeat marketed in the Netherlands and clarified it by simplifying the warning label, which should refer to the possibility of contamination rather than affirm that the product is contaminated.
- (10) In the light of the foregoing, the Commission's opinion is negative, in accordance with Article 19, third paragraph, of Directive 2000/13/EC.
- (11) The Netherlands authorities should accordingly be requested not to adopt the draft regulation in question.

⁽¹⁾ OJ L 109, 6.5.2000, p. 29.

(12) The measures provided for in this Decision are in conformity with the opinion of the Standing Committee on Foodstuffs,

2. clarification and simplification of the warning on the label, stating that there is a possibility of contamination.

Article 2

HAS ADOPTED THIS DECISION:

This Decision is addressed to the Kingdom of the Netherlands.

Article 1

The Netherlands must not adopt their draft regulation stipulating the prepacking and labelling of poultrymeat in the event of contamination by *Salmonella* or *Campylobacter*, unless the following amendments are introduced:

Done at Brussels, 13 March 2001.

1. application, save in duly substantiated exceptional cases, to all poultrymeat marketed in the Netherlands;

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 14 March 2001

amending Decision 2000/418/EC as regards mechanically recovered meat and bovine vertebral column

(notified under document number C(2001) 705)

(Text with EEA relevance)

(2001/233/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 10(4) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽⁴⁾, and in particular Article 22 thereof,

Whereas:

- (1) Commission Decision 2000/418/EC of 29 June 2000 regulating the use of material presenting risks as regards transmissible spongiform encephalopathies and amending Decision 94/474/EC ⁽⁵⁾, as amended by Decision 2001/2/EC ⁽⁶⁾, provides for the removal and destruction of certain specified risk materials. This Decision already requires the removal of vertebral column of bovine animals over 30 months in Member States where BSE has been recorded at a high level. It also imposes restrictions on the production of certain materials and of certain slaughter techniques and on certain imports. It was to be reviewed in the light of new scientific evidence.
- (2) The exposure of humans to the risks stemming from bovine spongiform encephalopathy (BSE) has been largely associated with the consumption of meat mechanically recovered from the bones of the head and vertebral column. For control reasons the prohibition on the use of bones of the head and vertebral column from

bovine, ovine and caprine animals of all ages for the production of mechanically recovered meat should be extended to all bones of those species.

- (3) The recent developments of the BSE situation in the Community have led some Member States to take additional unilateral safeguard measures.
- (4) In the light of that situation, the Council has invited the Commission to request an evaluation by the Scientific Steering Committee (SSC) of the unilateral, temporary safeguard measures taken by some Member States, and to take appropriate action.
- (5) The SSC has repeated its recommendation to remove, in view of the geographic BSE risk and the effectiveness of risk reduction measures, the vertebral column including dorsal root ganglia of bovine animals over 12 months of age from the human and animal food and feed chains.
- (6) In its opinion of 20 February 1998 on BSE risk, the SSC stated that the vertebral column and dorsal root ganglia represent respectively 2,0 % and 3,8 % of the total infective load in a BSE infected animal. It recognised in that opinion that based on the quantitative data, the brain, spinal cord, dorsal root ganglia and trigeminal ganglia constitute the major hazards for direct human consumption.
- (7) In its opinion of 14 April 2000 on the United Kingdom decision to lift the ban on consumption of meat on the bone, the SSC further considered the risk from bone marrow very low, if not negligible. Therefore, the vertebral column and dorsal root ganglia constitute, under current understanding, less than 4 % of the infective load of an infected animal. The age structure of confirmed BSE cases further reduces the risk in animals less than 30 months of age. Past experience showed that 99,95 % of the over 180 000 BSE cases in Europe occurred in animals over 30 months of age.
- (8) Therefore vertebral column of bovine animals over 30 months of age constitutes the biggest risk and should continue to be removed and destroyed in Member States where BSE has been confirmed at a high level, even from animals which were born after an effectively enforced

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 224, 18.8.1990, p. 29.

⁽⁴⁾ OJ L 24, 30.1.1998, p. 9.

⁽⁵⁾ OJ L 158, 30.6.2000, p. 76.

⁽⁶⁾ OJ L 1, 4.1.2001, p. 21.

feed ban. Vertebral column of bovine animals over 12 months of age should also be removed in Member States where the occurrence of BSE in native bovine animals is likely but not confirmed or confirmed at a lower or a higher level, taking account of the effectiveness of the risk reduction measures.

- (9) Preliminary results of the large-scale application of the rapid test detected BSE cases in native bovine animals in countries that previously did not record BSE. The young age of some of the detected BSE cases indicates that the BSE risk reduction measures have not been fully effective in all Member States.
- (10) At the same time a need has arisen to restore consumer confidence particularly in Member States where the robustness of the risk reduction measures has been put in doubt by the outcome of the testing programme.
- (11) Vertebral column may be removed at the point of sale to the consumer, allowing for placing on the domestic market of carcasses or parts of carcasses of bovine animals that still contain vertebral column. In order to avoid any disruption of the internal market such carcasses containing vertebral column should also be accepted for trade between Member States.
- (12) Member States for which a scientific evaluation indicates that the occurrence of BSE in native animals is unlikely or that can provide conclusive evidence supporting the effectiveness of the risk reduction measures may apply for a derogation from the obligation to remove vertebral column. This derogation shall be made conditional upon monitoring of the continued effectiveness of the risk reduction measures by testing animals for BSE.
- (13) Commission Regulation (EC) No 716/96 of 19 April 1996 adopting exceptional support measures for the beef market in the United Kingdom ⁽¹⁾ and Commission Regulation (EC) No 2777/2000 of 18 December 2000 adopting exceptional support measures for the beef market ⁽²⁾ provide for schemes whereby healthy bovine animals over 30 months of age can be purchased for destruction instead of being slaughtered for human consumption. It is necessary to clarify that the obligation to examine certain groups of animals applies also where such animals are purchased for destruction under those Regulations.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2000/418/EC is amended as follows:

1. in Article 7(b), the following subparagraph is added:

'However, carcasses containing no specified risk material other than vertebral column, including dorsal root ganglia, may be dispatched to another Member State without the latter's prior agreement.'

2. in Article 4, the words 'of the head and vertebral columns' are deleted;

3. Annex I is amended as follows:

- (a) Point 1 is replaced by the following:

'1. (a) The following tissues shall be designated as specified risk material in all Member States and regions thereof:

- (i) the skull including the brains and eyes, the tonsils, the vertebral column excluding the vertebrae of the tail, but including dorsal root ganglia and spinal cord of bovine animals aged over 12 months, and the intestines from the duodenum to the rectum of bovine animals of all ages;
- (ii) the skull including the brains and eyes, the tonsils and the spinal cord of ovine and caprine animals aged over 12 months or that have a permanent incisor erupted through the gum, and the spleen of ovine and caprine animals of all ages.

- (b) In addition to the specified risk material listed in point (a), the following tissues shall be designated as specified risk material in the United Kingdom and in Portugal with the exception of the Autonomous Region of the Azores:

— the entire head excluding the tongue, including the brains, eyes, trigeminal ganglia and tonsils; the thymus; the spleen and spinal cord of bovine animals aged over six months.'

- (b) in the third sentence of point 2, the words 'on their territory' are deleted;

- (c) the following point 6 is added:

'6. By way of derogation from point 1(a)(i), a decision may be taken in accordance with the procedure referred to in Article 17 of Directive 89/662/EEC to allow the use of vertebral column and dorsal root ganglia from bovine animals:

- (a) born, continuously reared and slaughtered in Member States for which a scientific evaluation established that the occurrence of BSE in native bovine animals is highly unlikely, or unlikely but not excluded; or,

⁽¹⁾ OJ L 99, 20.4.1996, p. 14.

⁽²⁾ OJ L 321, 19.12.2000, p. 47.

- (b) born after the date of effective enforcement of the prohibition on the feeding of mammalian protein to ruminants in Member States with reported BSE in native animals or for which a scientific evaluation established that the occurrence of BSE in native bovine animals is likely.

The United Kingdom, Portugal, Finland, Sweden and Austria may benefit from this derogation on the basis of previously submitted and evaluated evidence. Other Member States may apply for this derogation by submitting conclusive supporting evidence to the Commission regarding point (a) or (b), as appropriate.

Member States benefiting from this derogation shall, in addition to the requirements laid down in Decisions 98/272/EC and 2000/764/EC, ensure that one of the approved rapid tests listed in Annex IV(A) to Decision 98/272/EC is applied to all bovine animals over 30 months of age which:

- (a) have died on the farm or in transport, but which have not been slaughtered for human consumption, with the exception of those dead animals in remote areas with a low animal density situated in Member States where the occurrence of BSE is unlikely;
- (b) were subject to normal slaughter for human consumption;

- (c) were born during the first year after the date of the effective enforcement of the prohibition on the feeding of mammalian protein to ruminants and were purchased for destruction in accordance with Commission regulations adopting exceptional support measures for the beef market.

This derogation shall not be granted to allow the use of vertebral column and dorsal root ganglia from bovine animals aged over 30 months from the United Kingdom or from Portugal with the exception of the Autonomous Region of the Azores.

Experts from the Commission may carry out on-the-spot checks to further verify the submitted evidence.'

Article 2

This Decision shall apply from 31 March 2001.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 14 March 2001.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 22 March 2001
concerning certain protection measures with regard to foot-and-mouth disease in Ireland

(notified under document number C(2001) 985)

(Text with EEA relevance)

(2001/234/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 9 thereof,

Whereas:

- (1) Following the reports of outbreaks of foot-and-mouth disease in the United Kingdom, the Commission adopted Decision 2001/172/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom ⁽⁴⁾, as last amended by Decision 2001/190/EC ⁽⁵⁾.
- (2) Following outbreaks of foot-and-mouth disease declared in France the Commission adopted Decision 2001/208/EC ⁽⁶⁾.
- (3) Following outbreaks of foot-and-mouth disease declared in the Netherlands the Commission adopted Decision 2001/223/EC ⁽⁷⁾.
- (4) Outbreaks of foot-and-mouth disease have been declared in Ireland within an area under restriction due to an outbreak in Northern Ireland.
- (5) The foot-and-mouth disease situation in certain parts of Ireland is liable to endanger the herds in other parts of the territory of Ireland and in other Member States in view of the placing on the market and trade in live biungulate animals and certain of their products.

- (6) Ireland has taken measures in the framework of Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease ⁽⁸⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and furthermore has introduced further measures within the affected areas, including the measures laid down in Decision 2001/172/EC.
- (7) The disease situation in Ireland requires reinforcing the control measures for foot-and-mouth disease taken by Ireland.
- (8) Pending the meeting of the Standing Veterinary Committee and in collaboration with the Member State concerned the Commission should take interim protection measures relating to foot-and-mouth disease in Ireland.
- (9) This Decision shall be reviewed at the meeting of the Standing Veterinary Committee scheduled for 27 March 2001,

HAS ADOPTED THIS DECISION:

Article 1

Without prejudice to the measures taken by Ireland within the framework of Council Directive 85/511/EEC, Ireland shall ensure that:

1. no live animals of the bovine, ovine, caprine and porcine species and other biungulates move between those parts of its territory listed in Annex I and Annex II;
2. no live animals of the bovine, ovine, caprine and porcine species and other biungulates are dispatched from or moved through those parts of its territory listed in Annex I and Annex II.

Derogating from the provisions in the first paragraph the competent authorities may authorise the direct and uninterrupted transit of biungulate animals through the areas listed in Annex I and Annex II on main roads and railway lines;

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 62, 2.3.2001, p. 22.

⁽⁵⁾ OJ L 67, 9.3.2001, p. 88.

⁽⁶⁾ OJ L 73, 15.3.2001, p. 38.

⁽⁷⁾ OJ L 82, 22.3.2001, p. 29.

⁽⁸⁾ OJ L 315, 26.11.1985, p. 11.

3. the health certificates provided for in Council Directive 64/432/EEC ⁽¹⁾, as last amended by Directive 2000/20/EC ⁽²⁾, accompanying live bovine and porcine animals and in Council Directive 91/68/EEC ⁽³⁾, as last amended by Commission Decision 94/953/EC ⁽⁴⁾, accompanying live ovine and caprine animals consigned from parts of the territory of Ireland not listed in Annex I and Annex II to other Member States shall bear the following words:

'Animals conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland';

4. the health certificates accompanying biungulates, other than those covered by the certificates mentioned in paragraph 3, consigned from parts of the territory of Ireland not listed in Annex I and Annex II to other Member States shall bear the following words:

'Live biungulates conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland';

5. the movement to other Member States of animals accompanied by an animal health certificate referred to in paragraphs 3 or 4 shall only be allowed following three days advance notification dispatched by the local veterinary authority to the central and local veterinary authorities in the Member State of destination.

Article 2

1. Ireland shall not dispatch fresh meat of the bovine, ovine, caprine and porcine species and other biungulates coming from those parts of its territory listed in Annex I or obtained from animals originating in those parts of Ireland.

Fresh meat referred to in the first subparagraph shall include minced meat and meat preparations in accordance with Council Directive 94/65/EC laying down the requirements for the production and placing on the market of minced meat ⁽⁵⁾.

2. The prohibitions provided for in paragraph 1 shall not apply to:

- (a) fresh meat obtained before 20 February 2001 provided that the meat is clearly identified, and since this date has been transported and stored separately from meat which is not destined for dispatch outside the areas mentioned in Annex I;
- (b) fresh meat obtained from animals reared outside the areas listed in Annex I and transported in derogation to Article 1(1) directly and under official control in sealed means of transport to a slaughterhouse situated in the area listed in

Annex I outside the protection zone for immediate slaughter. Such meat shall only be placed on the market in Ireland;

- (c) fresh meat obtained from cutting plants situated in the areas listed in Annex I under the following conditions:

- only fresh meat as described in subparagraphs (a) and (b) or fresh meat obtained from animals reared and slaughtered outside the area listed in Annex I will be processed in this establishment,

- all such fresh meat must bear the health mark in accordance with Chapter XI of Annex I to Council Directive 64/433/EEC ⁽⁶⁾ on health conditions for the production and marketing of fresh meat, as last amended by Directive 95/23/EC ⁽⁷⁾,

- the plant will be operated under strict veterinary control,

- the fresh meat must be clearly identified, and transported and stored separately from meat which is not destined for dispatch outside the areas mentioned in Annex I,

- the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to the other Member States and the Commission a list of those establishments which they have approved in application of these provisions.

- (d) fresh meat obtained from animals of susceptible species originating in the areas listed in Annex I which is transported under veterinary supervision to an establishment situated in Ireland outside the areas listed in Annex I for treatment in accordance with Article 3(2).

3. Meat consigned from Ireland to other Member States shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Meat conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

Article 3

1. Ireland shall not dispatch meat products of animals of the bovine, ovine, caprine and porcine species and other biungulates coming from those parts of Ireland listed in Annex I or prepared using meat obtained from animals originating in those parts of Ireland.

⁽¹⁾ OJ 121, 29.7.1964, p. 1977/64.

⁽²⁾ OJ L 163, 4.7.2000, p. 35.

⁽³⁾ OJ L 46, 19.2.1991, p. 19.

⁽⁴⁾ OJ L 371, 31.12.1994, p. 14.

⁽⁵⁾ OJ L 368, 31.12.1994, p. 10.

⁽⁶⁾ OJ 121, 29.7.1964, p. 2012/64. Directive updated by Directive 91/497/EEC (OJ L 268, 24.9.1991, p. 69).

⁽⁷⁾ OJ L 243, 11.10.1995, p. 7.

2. The restrictions described in paragraph 1 shall not apply to meat products which have undergone one of the treatments laid down in Article 4(1) of Council Directive 80/215/EEC ⁽¹⁾, as last amended by Council Directive 91/687/EEC ⁽²⁾, or to meat products as defined in Council Directive 77/99/EEC ⁽³⁾, as last amended by Council Directive 97/76/EC ⁽⁴⁾, on health problems affecting the production and marketing of meat products and certain other products of animal origin, which have been subjected during preparation uniformly throughout the substance to a pH value of less than 6.

3. The prohibitions described in paragraph 1 shall not apply to:

(a) meat products prepared from meat derived from biungulate animals slaughtered before 20 February 2001 provided that the meat products are clearly identified, and since this date have been transported and stored separately from meat products which are not destined for dispatch outside the areas mentioned in Annex I;

(b) meat products prepared in establishments under the following conditions:

— all fresh meat used in the establishment must conform to the conditions of Article 2(2),

— all meat products used in the final product will conform to the conditions of paragraph (a) or be made from fresh meat obtained from animals reared and slaughtered outside the area listed in Annex I,

— all meat products must bear the health mark in accordance with Chapter VI of Annex B to Directive 77/99/EEC,

— the establishment will be operated under strict veterinary control,

— the meat products must be clearly identified and transported and stored separately from meat and meat products which are not destined for dispatch outside the areas mentioned in Annex I,

— the control of the compliance with the above listed conditions shall be carried out by the competent authority under the responsibility of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions;

(c) meat products prepared in the parts of the territory which are not included in Annex I using meat obtained before 20 February 2001 from parts of the territory included in Annex I provided that the meat and meat products are clearly identified and transported and stored separately from meat and meat products which are not destined for dispatch outside the areas mentioned in Annex I.

4. Meat products consigned from Ireland to other Member States shall be accompanied by an official certificate. The certificate shall bear the following words:

'Meat products conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

5. Derogating from the provisions in paragraph 4 it shall be sufficient in the case of meat products which conform to the requirements of paragraph 2 and are consigned in hermetically sealed containers or have been processed in an establishment operating HACCP ⁽⁵⁾ and an auditable standard operating procedure which ensures that standards for treatment are met and recorded that compliance with the conditions required for the treatment laid down in paragraph 2 is stated in the commercial document accompanying the consignment, endorsed in accordance with Article 9.

Article 4

1. Ireland shall not dispatch milk intended or not intended for human consumption from those parts of its territory listed in Annex I.

2. The prohibitions described in paragraph 1 shall not apply to milk intended or not intended for human consumption which has been subjected to at least:

(a) an initial pasteurization in accordance with the norms defined in paragraph 3(b) of Chapter 1 in Annex I to Directive 92/118/EEC, followed by a second heat treatment by high temperature pasteurization, UHT, sterilization or by a drying process which includes a heat treatment with an equivalent effect to one of the above; or

(b) an initial pasteurization in accordance with the norms defined in paragraph 3(b) of Chapter 1 in Annex I to Directive 92/118/EEC, combined with the treatment by which the pH is lowered below 6 and held there for at least one hour.

3. The prohibitions described in paragraph 1 shall not apply to milk prepared in establishments situated in the areas listed in Annex I under the following conditions:

⁽¹⁾ OJ L 47, 21.2.1980, p. 4.

⁽²⁾ OJ L 377, 31.12.1991, p. 16.

⁽³⁾ OJ L 26, 31.1.1977, p. 85. Directive updated by Directive 92/5/EEC (OJ L 57, 2.3.1992, p. 1) and last amended by Directive 92/45/EEC (OJ L 268, 14.9.1992, p. 35).

⁽⁴⁾ OJ L 10, 16.1.1998, p. 25.

⁽⁵⁾ HACCP = Hazard Analysis and Critical Control Points

- (a) all milk used in the establishment must either conform to the conditions of paragraph 2 or be obtained from animals outside the area listed in Annex I;
- (b) the establishment will be operated under strict veterinary control;
- (c) the milk must be clearly identified and transported and stored separately from milk and milk products which are not destined for dispatch outside the areas mentioned in Annex I;
- (d) transport of raw milk from holdings situated outside the areas mentioned in Annex I to the establishments referred to above is carried out in vehicles which were cleaned and disinfected prior to operation and had no subsequent contact with holdings in the areas mentioned in Annex I keeping animals of species susceptible to foot-and-mouth disease;
- (e) the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions.

4. Milk consigned from Ireland to other Member States shall be accompanied by an official certificate. The certificate shall bear the following words:

'Milk conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

5. Derogating from the provisions in paragraph 4 it shall be sufficient in the case of milk which conforms to the requirements of paragraph 2(a) or (b) and is consigned in hermetically sealed containers or has been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded that compliance with the conditions required for the treatment laid down in paragraph 2(a) or (b) is stated in the commercial document accompanying the consignment, endorsed in accordance with Article 9.

Article 5

1. Ireland shall not dispatch milk products intended or not intended for human consumption from those parts of its territory listed in Annex I.

2. The prohibitions described in paragraph 1 shall not apply to milk products intended or not intended for human consumption:

- (a) produced before 20 February 2001;
- (b) prepared from milk complying with the provisions in Article 4(2) or (3);
- (c) subject to a heat treatment at a temperature of at least 72 °C for at least 15 seconds, on the understanding that such treatment was not necessary for finished products the

ingredients of which comply with the respective animal health conditions laid down in this Decision;

- (d) for export to a third country where import conditions permit such products to be subject to treatment other than laid down in this Decision.

3. The prohibitions described in paragraph 1 shall not apply to:

- (a) milk products prepared in establishments situated in the areas listed in Annex I under the following conditions:

- all milk used in the establishment will either conform to the conditions of Article 4(2) or be obtained from animals outside the area listed in Annex I,
- all milk products used in the final product will either conform to the conditions of paragraph 2 or be made from milk obtained from animals outside the area listed in Annex I,
- the establishment will be operated under strict veterinary control,
- the milk products must be clearly identified and transported and stored separately from milk and milk products which are not destined for dispatch outside the areas mentioned in Annex I,
- the control of the compliance with the above listed conditions shall be carried out by the competent authority under the responsibility of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions;

- (b) milk products prepared in the parts of the territory outside the areas mentioned in Annex I using milk obtained before 20 February 2001 from parts of the territory mentioned in Annex I provided that the milk products are clearly identified and transported and stored separately from milk products which are not destined for dispatch outside the areas mentioned in Annex I.

4. Milk products consigned from Ireland to other Member States shall be accompanied by an official certificate. The certificate shall bear the following words:

'Milk products conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

5. Derogating from the provisions in paragraph 4 it shall be sufficient in the case of milk products which conform to the requirements of paragraph 2 and are consigned in hermetically sealed containers or have been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded that compliance with the conditions laid down in paragraph 2 is stated in the commercial document accompanying the consignment, endorsed in accordance with Article 9.

Article 6

1. Ireland shall not send semen, ova and embryos of the bovine, ovine, caprine and porcine species and other biungulates from those parts of its territory listed in Annex I to other parts of Ireland.

2. Ireland shall not dispatch semen, ova and embryos of the bovine, ovine, caprine and porcine species and other biungulates from those parts of its territory listed in Annex I and Annex II.

3. This prohibition shall not apply to frozen bovine semen and embryos produced before 20 February 2001.

4. The health certificate provided for in Council Directive 88/407/EEC⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and accompanying frozen bovine semen consigned from Ireland to other Member States shall bear the following words:

'Frozen bovine semen conforming to Commission Decision 2001/234/EC of 22 March 2001 on certain protection measures with regard to foot-and-mouth disease in Ireland'.

5. The health certificate provided for in Council Directive 89/556/EEC⁽²⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and accompanying bovine embryos consigned from Ireland to other Member States shall bear the following words:

'Bovine embryos conforming to Commission Decision 2001/234/EC of 22 March 2001 on certain protection measures with regard to foot-and-mouth disease in Ireland'.

Article 7

1. Ireland shall not dispatch hides and skins of bovine, ovine, caprine and porcine species and other biungulates from those parts of its territory listed in Annex I.

2. This prohibition shall not apply to hides and skins which were produced before 20 February 2001 or which conform to the requirements of paragraph 1 (A) indents 2 to 5 or paragraph 1 (B), indents 3 and 4 of Chapter 3 of Annex I to Directive 92/118/EEC. Care must be taken to separate effectively treated hides and skins from untreated hides and skins.

3. Ireland shall ensure that hides and skins of bovine, ovine, caprine and porcine species and other biungulates to be sent to other Member States shall be accompanied by a certificate which bears the following words:

'Hides and skins conforming to Commission Decision 2001/234/EC of 22 March 2001 on certain protection measures with regard to foot-and-mouth disease in Ireland'.

⁽¹⁾ OJ L 194, 22.7.1988, p. 10.

⁽²⁾ OJ L 302, 19.10.1989, p. 1.

4. Derogating from the provisions in paragraph 3 it shall be sufficient in the case of hides and skins which conform to the requirements of paragraph 1 (A) indents 2 to 5 of Chapter 3 of Annex I to Directive 92/118/EEC to be accompanied by a commercial document stating compliance with the conditions required for the treatment laid down in paragraph 1 (A) indents 2 to 5 of Chapter 3 of Annex I to Directive 92/118/EEC.

5. Derogating from the provisions in paragraph 3 it shall be sufficient in the case of hides and skins which conform to the requirements of paragraph 1 (B) indents 3 and 4 of Chapter 3 of Annex I to Directive 92/118/EEC that compliance with the conditions required for the treatment laid down in paragraph 1 (B) indents 3 and 4 of Chapter 3 of Annex I to Directive 92/118/EEC is stated in the commercial document accompanying the consignment, endorsed in accordance with Article 9.

Article 8

1. Ireland shall not dispatch animal products of the bovine, ovine, caprine and porcine species and other biungulates not mentioned in Articles 2, 3, 4, 5, 6 and 7 produced after 20 February 2001 from those parts of its territory listed in Annex I.

Ireland shall not dispatch dung and manure from those parts of its territory listed in Annex I.

2. The prohibitions mentioned in paragraph 1 first subparagraph shall not apply to:

(a) animal products referred to in paragraph 1 first subparagraph which have been subjected to:

- heat treatment in a hermetically sealed container with a Fo value of 3,00 or more, or
- heat treatment in which the centre temperature is raised to at least 70 °C;

(b) blood and blood products as defined in Chapter 7 of Annex I to Directive 92/118/EEC which have been subject to at least one of the following treatments:

- heat treatment at a temperature of 65 °C for at least three hours, followed by an effectiveness check,
- irradiation at 2,5 megarads or gamma rays followed by an effectiveness check,
- change of pH to pH 5 or lower for at least two hours, followed by an effectiveness check;

(c) lard and rendered fats which have been subject to the heat treatment prescribed in paragraph 2 (A) of Chapter 9 of Annex I to Directive 92/118/EEC;

(d) animal casings to which the provisions in paragraph B Chapter 2 of Annex I to Directive 92/118/EEC apply *mutatis mutandis*;

- (e) sheep wool, ruminant hair and pigs bristles which have undergone factory washing or have been obtained from tanning and unprocessed sheep wool, ruminant hair and pigs bristles which are securely enclosed in packaging and dry;
- (f) semi-moist and dried petfood conforming to the requirements of paragraphs 2 and 3 respectively of Chapter 4 of Annex I to Directive 92/118/EEC;
- (g) composite products which are not subject to further treatment containing products of animal origin on the understanding that the treatment was not necessary for finished products the ingredients of which comply with the respective animal health conditions laid down in this Decision;
- (h) game trophies in accordance with paragraph 2 (b) of part B in Chapter 13 of Annex I to Directive 92/118/EEC.

3. Ireland shall ensure that the animal products mentioned in paragraph 2 to be sent to other Member States shall be accompanied by an official certificate which bears the following words:

'Animal products conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

4. Derogating from the provisions in paragraph 3 it shall be sufficient in the case of products mentioned in paragraph 2(b), (c) and (d) that compliance with the conditions for the treatment stated in the commercial document required in accordance with the respective Community legislation is endorsed in accordance with Article 9.

5. Derogating from the provisions in paragraph 3 it shall be sufficient in the case of products mentioned in paragraph 2(e) to be accompanied by a commercial document stating either the factory washing or origin from tanning or compliance with the conditions laid down in paragraphs 2 and 4 of Chapter 15 of Annex I to Council Directive 92/118/EEC.

6. Derogating from the provisions in paragraph 3 it shall be sufficient in the case of products mentioned in paragraph 2(g) which have been produced in an establishment operating HACCP and an auditable standard operating procedure which ensures that pre-processed ingredients comply with the respective animal health conditions laid down in this Decision and that this is stated on the commercial document accompanying the consignment, endorsed in accordance with Article 9.

Article 9

Where reference is made to this Article, the competent authorities of Ireland shall ensure that the commercial document required by Community legislation for intra-Community trade be endorsed by the attachment of a copy of an official certificate stating that the production process has been audited and

found in compliance with the appropriate requirements in Community legislation and suitable to destroy the foot-and-mouth disease virus or that the products concerned have been produced from pre-processed materials which had been certified accordingly, and provisions are in place to avoid possible re-contamination with the foot-and-mouth disease virus after treatment.

Such verifying certification of the production process shall bear a reference to this Decision, shall be valid for 30 days, shall state the expiry date and shall be renewable after inspection of the establishment.

Article 10

1. Ireland shall ensure that vehicles which have been used in the areas listed in Annex I for the transport of live animals are cleaned and disinfected after each operation, and shall furnish proof of such disinfection.

2. Ireland shall ensure that lorries used for the collection of milk which have been on a holding where animals of susceptible species are kept are cleaned and disinfected prior to leaving the areas included in Annex II, and shall furnish proof of such disinfection.

Article 11

The restrictions laid down in Articles 3, 4, 5 and 8 shall not apply to the dispatch from the parts of the territory of Ireland listed in Annex I of the products referred to in Articles 3, 4, 5 and 8, if such products were

- either not produced in Ireland and remained in their original packaging indicating the country of origin of the products, or
- produced in an approved establishment situated in the parts of the territory of Ireland listed in Annex I from pre-processed products not originating from these areas, which have been since introduction onto the territory of Ireland transported, stored and processed separately from products which are not destined for dispatch outside the areas mentioned in Annex I and are accompanied by a commercial document or official certificate as required by this Decision.

Article 12

1. Ireland shall ensure that equidae dispatched from its territory to another Member State are accompanied by an animal health certificate in accordance with the model in Annex C of Council Directive 90/426/EEC, which shall only be issued for equidae that for the past 15 days prior to certification have not been in a protection and surveillance zone established in accordance with Article 9 of Directive 85/511/EEC.

2. Ireland shall ensure that equidae mentioned in paragraph 1 to be sent to other Member States shall be accompanied by an official certificate which bears the following words:

'Equidae conforming to Commission Decision 2001/234/EC of 22 March 2001 concerning certain protection measures with regard to foot-and-mouth disease in Ireland'.

Article 13

Member States shall amend the measures which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 14

This Decision shall apply until midnight on 4 April 2001.

Article 15

This Decision is addressed to the Member States.

Done at Brussels, 22 March 2001.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

In Ireland the county of:

Louth

ANNEX II

In Ireland the counties of:

All counties of Ireland except the one in Annex I.
