

Official Journal

of the European Communities

ISSN 0378-6978

L 186

Volume 44

7 July 2001

English edition

Legislation

Contents

Acts adopted pursuant to Title VI of the Treaty on European Union

2001/512/JHA:

- ★ **Council Decision of 28 June 2001 establishing a second phase of the programme of incentives and exchanges, training and cooperation for legal practitioners (Grotius II — Criminal) 1**

2001/513/JHA:

- ★ **Council Decision of 28 June 2001 establishing a second phase of the programme of incentives, exchanges, training and cooperation for law enforcement authorities (Oisin II) 4**

2001/514/JHA:

- ★ **Council Decision of 28 June 2001 establishing a second phase of the programme of incentives, exchanges, training and cooperation for persons responsible for combating trade in human beings and the sexual exploitation of children (Stop II) 7**

2001/515/JHA:

- ★ **Council Decision of 28 June 2001 establishing a programme of incentives and exchanges, training and cooperation for the prevention of crime (Hippokrates) 11**

I *Acts whose publication is obligatory*

Commission Regulation (EC) No 1377/2001 of 6 July 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables 14

Commission Regulation (EC) No 1378/2001 of 6 July 2001 opening a standing invitation to tender for the resale on the internal market of approximately 12 560 tonnes of rice held by the French intervention agency 16

- ★ **Commission Regulation (EC) No 1379/2001 of 6 July 2001 amending Regulation (EC) No 1261/96 establishing the forecast supply balance for the Canary Islands as regards wine products qualifying under the specific arrangements provided for in Articles 2 to 5 of Council Regulation (EEC) No 1601/92 17**

★ Commission Regulation (EC) No 1380/2001 of 6 July 2001 amending Regulation (EEC) No 2168/92 laying down detailed implementing rules for the specific measures for the Canary Islands with regard to seed potatoes (forecast supply balance)	20
★ Commission Regulation (EC) No 1381/2001 of 6 July 2001 amending Regulation (EEC) No 2225/92 on the detailed rules for the implementation of the specific arrangements for the supply of hops to Madeira	22
★ Commission Regulation (EC) No 1382/2001 of 6 July 2001 amending Regulation (EEC) No 2224/92 on the detailed rules for the implementation of the specific arrangements for the supply of hops to the Canary Islands	24
★ Commission Regulation (EC) No 1383/2001 of 6 July 2001 amending Regulation (EC) No 1372/95 laying down detailed rules for implementing the system of export licences in the poultrymeat sector	26
★ Commission Regulation (EC) No 1384/2001 of 6 July 2001 amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds	28
Commission Regulation (EC) No 1385/2001 of 6 July 2001 on issuing A2 export licences for fruit and vegetables	32

II Acts whose publication is not obligatory

Council

2001/516/EC:

★ Council Decision of 22 May 2001 on the signature and provisional application of the Additional Protocol to the Agreement establishing an association between the European Economic Community and the Republic of Malta, to associate Malta to the Fifth Framework Programme for Research, Technological Development and Demonstration (1998-2002)	34
Additional Protocol to the agreement establishing an association between the European economic community and the republic of Malta	36

Commission

2001/517/EC:

★ Commission Decision of 13 February 2001 on the State aid implemented by the Netherlands for SCI-Systems ⁽¹⁾ (notified under document number C(2001) 402)	43
2001/518/EC:	
★ Commission Decision of 6 July 2001 amending for the fifth time Decision 2001/356/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom ⁽¹⁾ (notified under document number C(2001) 1791)	58

(Acts adopted pursuant to Title VI of the Treaty on European Union)

COUNCIL DECISION
of 28 June 2001
establishing a second phase of the programme of incentives and exchanges, training and cooperation for legal practitioners (Grotius II — Criminal)

(2001/512/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(c) thereof,

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

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters.
- (2) The conclusions of the Tampere European Council call for cooperation in the fight against crime to be stepped up in order to achieve a genuine European area of justice.
- (3) The Grotius programme, set up by Council Joint Action 96/636/JHA of 28 October 1996 on a programme of incentives and exchanges for legal practitioners ('Grotius') ⁽³⁾, has helped step up cooperation between the Member States' judiciaries and improve mutual understanding of their legal and judicial systems.
- (4) The renewal of the programme, expressly provided for by that Joint Action, would enable this cooperation to be improved.
- (5) The entry into force of the Amsterdam Treaty brings judicial cooperation in civil matters under Article 61 of the Treaty establishing the European Community and, consequently, support for cooperation activities in this field has become the subject of a separate Commission initiative on the renewal of the Grotius 'Civil' programme.
- (6) It is desirable to ensure continuity for the general and criminal projects supported by the Grotius programme

and to renew the programme for a second phase of two years.

- (7) The Grotius criminal programme must be opened up further to the applicant countries by facilitating their participation in the projects supported by the programme.
- (8) The measures necessary for the implementation of this Decision should be adopted in accordance with the procedures set out herein.
- (9) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽⁴⁾, is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes, for general and criminal matters, the second phase of the Grotius cooperation programme, hereinafter 'the programme', set up by Joint Action 96/636/JHA.
2. The programme is hereby renewed for the period from 1 January 2001 to 31 December 2002.

Article 2

Programme objectives

1. The programme shall contribute to the general objective of providing citizens with a high level of protection in an area of freedom, security and justice. Within this framework, it is intended to stimulate mutual knowledge of legal and judicial systems and to facilitate general judicial and criminal cooperation between the Member States.

⁽¹⁾ OJ C 96 E, 27.3.2001, p. 336.

⁽²⁾ Opinion delivered on 5 April 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 287, 8.11.1996, p. 3.

⁽⁴⁾ OJ C 172, 18.6.1999, p. 1.

2. The specific objectives of the programme are:

- (a) preparation of projects in the field of criminal judicial cooperation;
- (b) help in implementing the instruments adopted;
- (c) support for better mutual understanding on general topics of shared interest for the Member States;
- (d) local ad hoc projects with the aim of improving cooperation on the ground;
- (e) setting up networks between certain organisations and professions.

3. The applicant countries may participate in projects in order to familiarise themselves with the Union acquis in this area and help them prepare for accession. Other third countries may also participate where this serves the aims of the projects.

Article 3

Access to the programme

1. The programme shall co-finance projects submitted by institutions and public or private organisations, including professional organisations, research institutes and legal and judicial training/further training institutes for legal practitioners.

2. For the purposes of this Decision, 'legal practitioners' means judges, public prosecutors, lawyers, law officials, criminal investigation officers, bailiffs, experts, court interpreters, other professionals associated with the judiciary and researchers.

3. To be eligible for co-financing, the projects must involve at least three Member States, or two Member States and one applicant country, and have the objectives mentioned in Article 2.

4. The programme may also finance:

- (a) specific projects organised by Member States of particular interest in terms of the programme's priorities or cooperation with the applicant countries;
- (b) complementary measures organised by Member States such as seminars, meetings of experts or other activities to disseminate the information obtained under the programme.

Article 4

Activities under the programme

The programme shall comprise the following types of activities which apply to all fields of judicial cooperation with the exception of judicial cooperation in civil matters:

- (a) training;
- (b) exchanges and work experience placements;
- (c) studies and research;
- (d) meetings and seminars;
- (e) dissemination of the results obtained within the framework of the programme.

Article 5

Financing the programme

1. The financial reference amount for the implementation of this programme for the period 2001 to 2002 shall be EUR 4 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

3. The co-financing of a project by the programme shall be exclusive of any other financing by another programme financed by the general budget of the European Union.

4. Financing decisions shall be followed by grant contracts between the Commission and the organisers. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.

5. The proportion of financial support from the Community budget shall not exceed 70 % of the cost of the project.

6. However, the specific projects and complementary measures mentioned in Article 3(4) can be financed to 100 %, up to a ceiling of 10 % of the total financial package allocated annually to the programme for specific projects under Article 3(4)(a), and 5 % for complementary measures under Article 3(4)(b).

Article 6

Implementation of the programme

1. The Commission shall be responsible for the management and implementation of the programme, in cooperation with the Member States.

2. The programme shall be managed by the Commission in accordance with the Financial Regulation applicable to the general budget of the European Communities.

3. To implement the programme, the Commission shall:

- (a) prepare an annual work programme comprising specific objectives, thematic priorities and, if necessary, a list of specific projects and complementary measures;
- (b) evaluate and select the projects presented by the organisers mentioned in Article 3.

4. The Commission shall submit to the Committee mentioned in Article 7 the draft measures to be taken to implement the project in sufficient time to enable the Member States to consider them. Examination of the drafts presented by the organisers shall be carried out in accordance with the advisory procedure laid down in Article 8. Examination of the annual work programme, the specific projects and the complementary measures shall be carried out in accordance with the management procedure laid down in Article 9.

5. The Commission shall, on condition that they are compatible with the relevant policies, evaluate and select projects submitted by the organisers on the basis of the following criteria:

- (a) conformity with the programme's objectives;
- (b) European dimension of the project and scope for participation by the applicant countries;
- (c) compatibility with the work undertaken or planned within the framework of the European Union's political priorities on judicial cooperation in general and criminal matters;
- (d) complementarity with other past, present or future cooperation projects;
- (e) ability of the organiser to implement the project;
- (f) inherent quality of the project in terms of its conception, organisation, presentation and expected results;
- (g) amount of the subsidy requested under the programme and proportionality with the expected results;
- (h) impact of the expected results on the programme's objectives.

These criteria will be prioritised in the annual work programme.

Article 7

Committee

1. The Commission shall be assisted by a Committee entitled the 'Grotius II - Criminal Committee', consisting of representatives of the Member States and chaired by the Commission's representative.

2. This Committee shall adopt its rules of procedure on a proposal by the chair, on the basis of standard rules of procedure which have been published in the *Official Journal of the European Communities*. The Commission may invite representatives from the applicant countries to information meetings after the Committee's meetings.

Article 8

Advisory procedure

1. Where reference is made to this Article, the Commission shall be assisted by an advisory Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the

Committee of the manner in which the opinion has been taken into account.

Article 9

Management procedure

1. Where reference is made to this Article, the Commission shall be assisted by a management Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.

4. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 3.

Article 10

Evaluation

1. The Commission shall undertake each year an evaluation of the actions carried out in implementing the programme for the previous year. The outcome of the evaluation shall be forwarded to the Committee.

2. The Commission shall report each year to the European Parliament and the Council on the implementation of the programme. The first report shall be presented before 31 July 2002.

Article 11

Entry into force

This Decision shall take effect from the day of its publication in the Official Journal.

It shall apply until 31 December 2002.

Done at Luxembourg, 28 June 2001.

For the Council

The President

B. ROSENGREN

COUNCIL DECISION
of 28 June 2001
establishing a second phase of the programme of incentives, exchanges, training and cooperation
for law enforcement authorities (Oisin II)

(2001/513/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30(1), 31(a) and 34(2)(c) thereof,

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

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the field of police and judicial cooperation.
- (2) The conclusions of the Tampere European Council call for closer cooperation between the authorities responsible for combating crime.
- (3) The Oisin programme, set up by Council Joint Action 97/12/JHA of 20 December 1996 providing a common programme for the exchange and training of, and cooperation between, law enforcement authorities ('Oisin') ⁽³⁾, has helped step up cooperation between the Member States' law enforcement authorities.
- (4) The renewal of the programme, expressly provided for by that Joint Action, would enable this cooperation to be improved, in particular by making full use of the operational benefits of the programme.
- (5) It is desirable to ensure continuity for the projects supported by the Oisin programme and to renew the programme for a second phase of two years.
- (6) The Oisin programme must be opened up further to the applicant countries by facilitating their participation in the projects supported by the programme.
- (7) The measures necessary for the implementation of this Decision should be adopted in accordance with the procedures set out herein.
- (8) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improve-

ment of the budgetary procedure ⁽⁴⁾, is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the EC-Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes the second phase of the Oisin cooperation programme set up by Joint Action 97/12/JHA.
2. The programme is hereby renewed for the period from 1 January 2001 to 31 December 2002.

Article 2

Programme objectives

1. The programme shall contribute to the general objective of providing citizens with a high level of protection in an area of freedom, security and justice. Within this framework, it is intended to encourage cooperation between the Member States' law enforcement authorities and to provide such authorities with a greater insight into the working methods of their counterparts in other Member States and constraints by which they may be bound.
2. The applicant countries may participate in projects in order to familiarise themselves with the Union acquis in this area and help them prepare for accession. Other third countries may also participate where this serves the aims of the projects.

Article 3

Access to the programme

1. The programme shall co-finance projects submitted by the law enforcement authorities of the Member States of the European Union with the aim of achieving the objectives referred to in Article 2.
2. For the purposes of this Decision, 'law enforcement authorities' means the public bodies in the Member States which are responsible under national law for preventing, detecting and combating criminal offences.

⁽¹⁾ OJ C 96 E, 27.3.2001, p. 339.

⁽²⁾ Opinion delivered on 5 April 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 7, 10.1.1997, p. 5.

⁽⁴⁾ OJ C 172, 18.6.1999, p. 1.

3. To be eligible for co-financing, the projects must involve at least three Member States, or two Member States and one applicant country, and have the objectives mentioned in Article 2.
4. The programme may also finance:
 - (a) specific projects organised by Member States of particular interest in terms of the programme's priorities or cooperation with the applicant countries;
 - (b) complementary measures organised by Member States such as seminars, meetings of experts or other activities to disseminate the information obtained under the programme.

Article 4

Activities under the programme

The programme shall comprise the following types of activities:

- (a) training;
- (b) exchanges and work experience placements;
- (c) studies and research;
- (d) meetings and seminars;
- (e) dissemination of the results obtained within the framework of the programme.

Article 5

Financing the programme

1. The financial reference amount for the implementation of this programme for the period 2001 to 2002 shall be EUR 8 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.
3. The co-financing of a project by the programme shall be exclusive of any other financing by another programme financed by the general budget of the European Union.
4. Financing decisions shall be followed by grant contracts between the Commission and the organisers. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.
5. The proportion of financial support from the Community budget shall not exceed 70 % of the cost of the project.
6. However, the specific projects and complementary measures mentioned in Article 3(4) can be financed to 100 %, up to a ceiling of 10 % of the total financial package allocated annually to the programme for specific projects under Article 3(4)(a) and 5 % for complementary measures under Article 3(4)(b).

Article 6

Implementation of the programme

1. The Commission shall be responsible for the management and implementation of the programme, in cooperation with the Member States.

2. The programme shall be managed by the Commission in accordance with the Financial Regulation applicable to the general budget of the European Communities.

3. To implement the programme, the Commission shall:

- (a) prepare an annual work programme comprising specific objectives, thematic priorities and, if necessary, a list of specific projects and complementary measures;
- (b) evaluate and select the projects presented by the organisers mentioned in Article 3.

4. The Commission shall submit to the Committee mentioned in Article 7 the draft measures to be taken to implement the project in sufficient time to enable the Member States to consider them. Examination of the drafts presented by the organisers shall be carried out in accordance with the advisory procedure laid down in Article 8. Examination of the annual work programme, the specific projects and the complementary measures shall be carried out in accordance with the management procedure laid down in Article 9.

5. The Commission shall, on condition that they are compatible with the relevant policies, evaluate and select projects submitted by the organisers on the basis of the following criteria:

- (a) conformity with the programme's objectives;
- (b) European dimension of the project and scope for participation by the applicant countries;
- (c) compatibility with the work undertaken or planned within the framework of the European Union's political priorities on police and customs cooperation;
- (d) complementarity with other past, present or future cooperation projects;
- (e) ability of the organiser to implement the project;
- (f) inherent quality of the project in terms of its conception, organisation, presentation and expected results;
- (g) amount of the subsidy requested under the programme and proportionality with the expected results;
- (h) impact of the expected results on the programme's objectives.

These criteria will be prioritised in the annual work programme.

Article 7

Committee

1. The Commission shall be assisted by a committee, entitled the 'Oisin Committee', consisting of representatives of the Member States and chaired by the Commission's representative.

2. This committee shall adopt its rules of procedure on a proposal by the chair on the basis of standard rules of procedure which have been published in the *Official Journal of the European Communities*.

3. The Commission may invite representatives from the applicant countries to information meetings after the Committee's meetings.

*Article 8***Advisory procedure**

1. Where reference is made to this Article, the Commission shall be assisted by an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.
3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.
4. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which the opinion has been taken into account.

*Article 9***Management procedure**

1. Where reference is made to this Article, the Commission shall be assisted by a management committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.

4. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 3.

*Article 10***Evaluation**

1. The Commission shall undertake each year an evaluation of the actions carried out in implementing the programme for the previous year. The outcome of the evaluation shall be forwarded to the committee.
2. The Commission shall report each year to the European Parliament and the Council on the implementation of the programme. The first report shall be presented before 31 July 2002.

*Article 11***Entry into force**

This Decision shall take effect from the day of its publication in the Official Journal.

It shall apply until 31 December 2002.

Done at Luxembourg, 28 June 2001.

For the Council

The President

B. ROSENGREN

COUNCIL DECISION

of 28 June 2001

establishing a second phase of the programme of incentives, exchanges, training and cooperation for persons responsible for combating trade in human beings and the sexual exploitation of children (Stop II)

(2001/514/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30(1), 31 and 34(2)(c) thereof,

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

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters, and that this objective is to be achieved by preventing and combating trade in human beings and the sexual exploitation of children.
- (2) The conclusions of the Tampere European Council call for action against trade in human beings and the sexual exploitation of children.
- (3) The nature of the questions addressed makes it essential to have a coordinated, multidisciplinary approach involving the various parties responsible for combating these crimes at European Union level; creating a framework for training, information, study and exchange programmes for persons responsible for combating trade in human beings and the sexual exploitation of children in all its forms is likely to enable these phenomena to be prevented and combated more effectively.
- (4) It is important, in view of the international dimension of trade in human beings and sexual exploitation of children, to confront the phenomenon at every stage in the chain: recruiters, transporters, exploiters, other intermediaries and clients.
- (5) The Stop programme, set up by Council Joint Action 96/700/JHA of 29 November 1996 establishing an incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children ⁽³⁾, has helped increase awareness within the European Union and step up cooperation between persons in the Member States

responsible for combating trade in human beings and the sexual exploitation of children.

- (6) The Stop Programme has made clear that the European Union's objectives in combating trade in human beings and the sexual exploitation of children are attained more effectively at European level than by the individual Member States as a result of the exchange of experience, economies of scale and the cumulative impact of the actions undertaken.
- (7) The renewal of this programme, expressly envisaged by Joint Action 96/700/JHA and expressly requested by the European Parliament in its Resolution of 19 May 2000 entitled 'On Further Actions in the Fight against Trafficking in Women', will enable this cooperation to be further improved.
- (8) It is desirable to ensure continuity for the projects supported by the Stop programme and to renew it for a second phase of two years.
- (9) The programme's activities must be tied in with those carried out under the Daphne programme, which aims to combat violence against children, adolescents and women.
- (10) It is necessary to take action at Community level to ensure coordination between the projects and facilitate networking between the promoters while respecting the subsidiarity principle.
- (11) The Stop programme must be opened up further to the applicant countries by facilitating their participation in the projects supported by the programme.
- (12) The measures necessary for the implementation of this Decision should be adopted in accordance with the procedures set out herein.
- (13) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽⁴⁾, is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the EC Treaty,

⁽¹⁾ OJ C 96 E, 27.03.2001, p. 342.

⁽²⁾ Opinion delivered on 5 April 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 322, 12.12.1996, p. 7.

⁽⁴⁾ OJ C 172, 18.6.1999, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes the second phase of the Stop programme for the exchange and training of, and cooperation between, persons responsible for combating trade in human beings and the sexual exploitation of children set up by Joint Action 96/700/JHA.

2. The programme is hereby renewed for the period from 1 January 2001 to 31 December 2002.

Article 2

Programme objectives

1. The programme shall contribute to the general objective of providing citizens with a high level of protection in an area of freedom, security and justice. Within this framework, it is intended to prevent and combat trade in human beings and all forms of sexual exploitation of children, including child pornography and the violence associated with it, and to help the victims of these criminal activities. It aims, in particular, to:

- (a) develop, implement and evaluate a European policy in this field;
- (b) encourage and strengthen networking and practical cooperation such as the exchange and dissemination of information, experience and good practice, and the improvement and adaptation of training and scientific and technical research;
- (c) give particular attention to participation in the projects developed by this programme to the public or private organisations, institutions or associations concerned in the applicant countries;
- (d) encourage the stepping up of cooperation with third countries and the competent regional and international organisations;

2. The applicant countries may participate in projects in order to familiarise themselves with the Union acquis in this area and help them prepare for accession. Other third countries may also participate where this serves the aims of the projects.

Article 3

Access to the programme

1. The programme shall co-finance projects submitted by any public or private organisations, institutions or associations in the Member States of the European Union involved in helping victims and preventing and combating trade in human beings and sexual exploitation of children.

2. The programme is intended for persons responsible for assisting victims and for preventing and combating trade in human beings and the sexual exploitation of children, such as judges, public prosecutors, law enforcement authorities, public

immigration and social service authorities, researchers and representatives of charitable organisations.

3. To be eligible for co-financing, the projects must involve at least three Member States, or two Member States and one applicant country, and have the objectives mentioned in Article 2.

4. The programme may also finance:

- (a) specific projects organised by Member States of particular interest in terms of either the programme's priorities or cooperation with the applicant countries;
- (b) complementary measures organised by Member States such as seminars, meetings of experts or other activities to disseminate the information obtained under the programme.

Article 4

Activities under the programme

The programme shall comprise the following types of activities:

- (a) training;
- (b) exchanges and work experience placements;
- (c) studies and research;
- (d) meetings and seminars;
- (e) dissemination of the results obtained under the programme.

Article 5

Financing the programme

1. The financial reference amount for the implementation of this programme for the period 2001 to 2002 shall be EUR 4 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

3. The co-financing of a project by the programme shall be exclusive of any other financing by another programme financed by the general budget of the European Union.

4. Financing decisions shall be followed by grant contracts between the Commission and the organisers. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.

5. The proportion of financial support from the Community budget shall not exceed 70 % of the cost of the project.

6. However, the specific projects and complementary measures mentioned in Article 3(4) can be financed to 100 %, up to a ceiling of 10 % of the total financial package allocated annually to the programme for specific projects under Article 3(4)(a) and 5 % for complementary measures under Article 3(4)(b).

Article 6

Implementation of the programme

1. The Commission shall be responsible for the management and implementation of the programme, in cooperation with the Member States.
2. The programme shall be managed by the Commission in accordance with the Financial Regulation applicable to the general budget of the European Communities.
3. To implement the programme, the Commission shall:
 - (a) prepare an annual work programme comprising specific objectives, thematic priorities and, if necessary, a list of specific projects and complementary measures;
 - (b) evaluate and select the projects presented by the organisers mentioned in Article 3;
4. The Commission shall submit to the Committee mentioned in Article 7 the draft measures to be taken to implement the project in sufficient time to enable the Member States to consider them. Examination of the drafts presented by the organisers shall be carried out in accordance with the advisory procedure laid down in Article 8. Examination of the Annual Work Programme, the specific projects and the complementary measures shall be carried out in accordance with the management procedure laid down in Article 9.
5. The Commission shall, on the condition that they are compatible with the relevant policies, evaluate and select projects submitted by the organisers on the basis of the following criteria:
 - (a) conformity with the programme's objectives;
 - (b) European dimension of the project and scope for participation by the applicant countries;
 - (c) compatibility with the work undertaken or planned within the framework of the European Union's political priorities on justice and home affairs and, in particular, the priority relating to police and judicial cooperation in criminal matters;
 - (d) complementarity with other past, present or future cooperation projects;
 - (e) ability of the organiser to implement the project;
 - (f) multidisciplinary aspects of the project;
 - (g) inherent quality of the project in terms of its conception, organisation, presentation and expected results;
 - (h) amount of the subsidy requested under the programme and proportionality with the expected results;
 - (i) impact of the expected results on the programme's objectives.

These criteria will be prioritised in the annual work programme.

Article 7

Committee

1. The Commission shall be assisted by a Committee, entitled the 'Stop II Committee', consisting of representatives from

the Member States and chaired by the Commission's representative.

2. This Committee shall adopt its rules of procedure on a proposal by the basis of chair on the standard rules of procedure which have been published in the *Official Journal of the European Communities*.

3. The Commission may invite representatives from the applicant countries to information meetings after the Committee's meetings.

Article 8

Advisory procedure

1. Where reference is made to this Article, the Commission shall be assisted by an advisory Committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.
3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.
4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

Article 9

Management procedure

1. Where reference is made to this Article, the Commission shall be assisted by a management Committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.

4. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 3.

*Article 10***Evaluation**

1. The Commission shall undertake each year an evaluation of the actions carried out in implementing the programme for the previous year. The outcome of the evaluation shall be forwarded to the Committee.

2. Each year the Commission shall report each year to the European Parliament and the Council on the implementation of the programme. The first report shall be presented before 31 July 2002.

*Article 11***Entry into force**

This Decision shall take effect from the day of its publication in the Official Journal.

It shall apply until 31 December 2002.

Done at Luxembourg, 28 June 2001.

For the Council

The President

B. ROSENGREN

COUNCIL DECISION
of 28 June 2001
establishing a programme of incentives and exchanges, training and cooperation for the prevention
of crime (Hippokrates)

(2001/515/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30(1), 31 and 34(2)(c) thereof,

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

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States, in particular in the field of prevention of crime, whether or not organised.
- (2) The conclusions of the Tampere European Council call for cooperation in the fight against crime to be stepped up and for the possibility of establishing a programme financed by the Community to support this cooperation to be studied.
- (3) Experience gained in managing the other intervention programmes financed by the Community, such as Oisin and Falcone, confirms the value of a similar instrument for crime prevention, to be charged to the general budget of the European Union.
- (4) The optimum effectiveness of the intervention of the European Union will be ensured if it extends to all forms of crime, whether or not organised.
- (5) The complexity of the phenomenon of crime in the Member States and the diversity of prevention policies already implemented by the Member States create a need for multidisciplinary approaches based on familiarity with crime.
- (6) This programme, like the other programmes for cooperation in justice and home affairs, is open to the applicant countries with a view to facilitating their participation in the projects supported by the programme.
- (7) The measures necessary for the implementation of this Decision should be adopted in accordance with the procedures set out herein.

- (8) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽³⁾, is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes a programme of cooperation in the prevention of crime, to be known as 'Hippokrates'.
2. The programme is established for a period of two years running from 1 January 2001 to 31 December 2002.

Article 2

Programme objectives

1. The programme shall contribute to the general objective of providing citizens with a high level of protection in an area of freedom, security and justice. Within this framework, it is intended to encourage cooperation between all the public and private organisations in the Member States involved in the prevention of crime, whether or not organised.
2. The applicant countries may participate in projects in order to familiarise themselves with the Union acquis in this area and help them prepare for accession. Other third countries may also participate where this serves the aims of the projects.

Article 3

Access to the programme

1. The programme shall co-finance projects submitted by public or private organisations in the European Union involved in the prevention of crime.
2. To be eligible for co-financing, the projects must involve at least three Member States, or two Member States and one applicant country, and have the objectives mentioned in Article 2.

⁽¹⁾ OJ C 96 E, 27.3.2001, p. 244.

⁽²⁾ Opinion delivered on 5.4.2001 (not yet published in the Official Journal).

⁽³⁾ OJ C 172, 18.6.1999, p. 1.

3. The programme may also finance:
 - (a) specific projects organised by Member States of particular interest in terms of the programme's priorities or cooperation with the applicant countries;
 - (b) complementary measures organised by Member States such as seminars, meetings of experts or other activities to disseminate the information obtained under the programme.

Article 4

Activities of the programme

The programme shall comprise the following types of activities:

- (a) training;
- (b) exchanges and placements;
- (c) studies and research;
- (d) meetings and seminars;
- (e) dissemination of the results obtained within the framework of the programme.

Article 5

Financing the programme

1. The financial reference amount for the implementation of this programme for the period 2001 to 2002 shall be EUR 2 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.
3. The co-financing of a project by the programme shall be exclusive of any other financing by another programme financed by the general budget of the European Union.
4. Financing decisions shall be followed by grant contracts between the Commission and the organisers. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.
5. The proportion of financial support from the Community budget shall not exceed 70 % of the cost of the project.
6. However, the specific projects and complementary measures mentioned in Article 3(3) may be financed to 100 %, up to a ceiling of 10 % of the total financial package allocated annually to the programme for specific projects under Article 3(3)(a), and 5 % for complementary measures under Article 3(3)(b).

Article 6

Implementation of the programme

1. The Commission shall be responsible for the management and implementation of the programme, in cooperation with the Member States.

2. The programme shall be managed by the Commission in accordance with the Financial Regulation applicable to the general budget of the European Communities.

3. To implement the programme, the Commission shall:

- (a) prepare an annual work programme comprising specific objectives, thematic priorities and, if necessary, a list of specific projects and supplementary measures;
- (b) evaluate and select the projects presented by the organisers mentioned in Article 3.

4. The Commission shall submit to the Committee mentioned in Article 7 the draft measures to be taken to implement the project in sufficient time to enable the Member States to consider them. Examination of the drafts presented by the organisers shall be carried out in accordance with the advisory procedure laid down in Article 8. Examination of the annual work programme, the specific projects and the complementary measures shall be carried out in accordance with the management procedure laid down in Article 9.

5. The Commission shall, on the condition that they are compatible with the relevant policies, evaluate and select projects submitted by the organisers on the basis of the following criteria:

- (a) conformity with the programme's objectives;
- (b) whether the project has a European dimension and is open to participation by the applicant countries;
- (c) compatibility with the work undertaken or planned within the framework of the European Union's political priorities on crime prevention;
- (d) complementarity with other past, present or future cooperation projects;
- (e) ability of the organiser to implement the project;
- (f) the inherent quality of the project in terms of its conception, organisation, presentation and expected results;
- (g) the amount of the subsidy requested under the programme and whether it is proportionate with the expected results;
- (h) the impact of the expected results on the programme's objectives.

These criteria will be prioritised in the annual work programme.

Article 7

Committee

1. The Commission shall be assisted by a Committee to be known as the 'Hippocrates Committee', composed of the representatives of the Member States and chaired by a representative of the Commission.

2. The Committee shall adopt its rules of procedure on a proposal by the chair on the basis of standard rules of procedure which have been published in the *Official Journal of the European Communities*.

3. The Commission may invite representatives from the applicant countries to briefing sessions after the Committee's meetings.

*Article 8***Advisory procedure**

1. Where reference is made to this Article, the Commission shall be assisted by an advisory Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

*Article 9***Management procedure**

1. Where reference is made to this Article, the Commission shall be assisted by a management Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.

4. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 3.

*Article 10***Evaluation**

1. The Commission shall undertake each year an evaluation of the actions carried out in implementing the programme for the previous year. The outcome of the evaluation shall be forwarded to the Committee.

2. Each year the Commission shall report to the European Parliament and the Council on the implementation of the programme. The first report shall be presented before 31 July 2002.

*Article 11***Entry into force**

This Decision shall take effect from the day of its publication in the Official Journal.

It shall apply until 31 December 2002.

Done at Luxembourg, 28 June 2001.

For the Council

B. ROSENGREN

The President

I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1377/2001
of 6 July 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 7 July 2001.

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

Done at Brussels, 6 July 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 6 July 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	77,5
	091	39,6
	092	39,6
	999	52,2
0707 00 05	052	81,2
	999	81,2
0709 90 70	052	73,7
	999	73,7
0805 30 10	388	69,8
	528	74,5
	999	72,2
0808 10 20, 0808 10 50, 0808 10 90	388	94,8
	400	118,6
	508	103,2
	512	99,3
	524	61,7
	528	79,4
	720	143,7
	800	214,4
	804	105,9
	999	113,4
0808 20 50	388	95,4
	512	82,8
	528	74,2
	800	74,8
	804	133,5
	999	92,1
0809 10 00	052	195,2
	064	185,7
	999	190,4
0809 20 95	052	337,6
	064	209,5
	400	289,7
	999	278,9
0809 40 05	052	102,0
	064	170,3
	624	229,2
	999	167,2

⁽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 1378/2001**of 6 July 2001****opening a standing invitation to tender for the resale on the internal market of approximately
12 560 tonnes of rice held by the French intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular the last indent of Article 8(b) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 75/91 ⁽³⁾ lays down the procedures and conditions for the disposal of paddy rice held by intervention agencies.
- (2) There is strong demand on the Community market at present for certain varieties of Japonica rice and Indica rice consumed on the internal market, with market prices higher than the intervention price. At the same time, certain quantities of rice of those varieties are available in the French intervention agency's stores. Under those circumstances, a standing invitation to tender should be opened for the resale on the internal market of approximately 10 150 tonnes of Japonica paddy rice and 2 410 tonnes of Indica paddy rice held by the French intervention agency.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

Article 1

The French intervention shall open, under the conditions laid down in Regulation (EEC) No 75/91, a standing invitation to tender for the resale on the internal market of approximately 10 150 tonnes of Japonica rice and 2 410 tonnes of Indica paddy rice held by that agency.

Article 2

1. The closing date for the submission of tenders in response to the first partial invitation to tender shall be 18 July 2001.
2. The closing date for the submission of tenders in response to the last partial invitation to tender shall be 31 August 2001.
3. Tenders must be lodged with the French intervention agency at the following address:

ONIC
Office national interprofessionnel des céréales
Service des interventions
21, avenue Bosquet
F-75341 Paris Cedex 07
(Tel. (33) 144 18 21 36; fax (33) 144 18 20 80).

Article 3

By Tuesday of the week following the closing date for the submission of tenders, the French intervention agency shall notify the Commission of the quantities and the average prices of the various lots sold.

Article 4

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

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 9, 12.1.1991, p. 15.

COMMISSION REGULATION (EC) No 1379/2001**of 6 July 2001****amending Regulation (EC) No 1261/96 establishing the forecast supply balance for the Canary Islands as regards wine products qualifying under the specific arrangements provided for in Articles 2 to 5 of Council Regulation (EEC) No 1601/92**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 2, Article 3(4) and Article 4(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1261/96 ⁽³⁾, as last amended by Regulation (EC) No 1556/2000 ⁽⁴⁾, fixes the quantities of the forecast supply balance for wine products qualifying for Community aid for the period 1 July 2000 to 30 June 2001.
- (2) The quantities of the forecast supply balance should be determined to continue supplies, taking account of the special situation of production in the Canary Islands. Pending the entry into force of the reform of the specific supply arrangements and in order to avoid any break in the application of the specific supply arrangements in force, the supply balance should be established for the

period 1 July to 31 December 2001. The aid for the supply to the Canary Islands should also be fixed at the amounts given in Annex II, taking account of the quotations or prices for the said wine products in the European part of the Community and on the world market.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1261/96 are hereby replaced by Annexes I and II to this Regulation.

Article 2

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

It shall apply with effect from 1 July 2001.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 163, 2.7.1996, p. 15.

⁽⁴⁾ OJ L 179, 18.7.2000, p. 3.

ANNEX I

WINE PRODUCTS

Forecast supply balance for the Canary Islands

(1 July to 31 December 2001)

CN code	Description	Quantity (hectolitres)
ex 2204 21 79	Wines:	57 750
ex 2204 21 80	— originating in third countries: wines bearing only the name of the	
ex 2204 21 83	country of origin with no other indication or geographical designa-	
ex 2204 21 84	tion	
	— originating in the Community: table wine within the meaning of	47 500 ⁽¹⁾
	point 13 of Annex I to Regulation (EC) No 1493/1999	
ex 2204 29 62	Wines:	
ex 2204 29 64	— originating in third countries: wines bearing only the name of the	
ex 2204 29 65	country of origin with no other indication or geographical designa-	47 500 ⁽¹⁾
ex 2204 29 71	tion	
ex 2204 29 72	— originating in the Community: table wine within the meaning of	
ex 2204 29 75	point 13 of Annex I to Regulation (EC) No 1493/1999	
ex 2204 29 83		
ex 2204 29 84		
Total		105 250

⁽¹⁾ To be used in bottles holding 2 l. or less, or for industrial use.

ANNEX II

Aid granted in respect of the products listed in Annex I

(EUR/hl)

Product code	Aid applicable to products coming from the Community
2204 21 79 9100	7,419
2204 21 80 9100	9,742
2204 21 83 9100	10,132
2204 21 84 9100	13,307
2204 21 79 9200	8,685
2204 21 80 9200	11,406
2204 21 79 9910	4,543
2204 21 94 9910	14,250
2204 21 98 9910	14,250
2204 29 62 9100	7,419
2204 29 64 9100	7,419
2204 29 65 9100	7,419
2204 29 71 9100	9,742
2204 29 72 9100	9,742
2204 29 75 9100	9,742
2204 29 62 9200	8,685
2204 29 64 9200	8,685
2204 29 65 9200	8,685
2204 29 71 9200	11,406
2204 29 72 9200	11,406
2204 29 75 9200	11,406
2204 29 83 9100	10,132
2204 29 84 9100	13,307
2204 29 62 9910	4,543
2204 29 64 9910	4,543
2204 29 65 9910	4,543
2204 29 94 9910	14,250
2204 29 98 9910	14,250

COMMISSION REGULATION (EC) No 1380/2001**of 6 July 2001****amending Regulation (EEC) No 2168/92 laying down detailed implementing rules for the specific measures for the Canary Islands with regard to seed potatoes (forecast supply balance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Pursuant to Articles 2 and 3 of Regulation (EEC) No 1601/92, Commission Regulation (EEC) No 2168/92 ⁽³⁾, as last amended by Regulation (EC) No 1388/2000 ⁽⁴⁾, sets the quantity in the forecast supply balance for the supply of seed potatoes to the Canary Islands on the basis of the requirements of the Canary Islands and taking traditional trade patterns into account.
- (2) Pursuant to Article 3(2) of Regulation (EEC) No 1601/92, aid for the supply of seed potatoes to the Canary Islands from the rest of the Community should be set at a level ensuring that seed potatoes are supplied under conditions which are equivalent for the end user to those resulting from the exemption from customs duties on imports of seed potatoes from third countries. The

aid must be set taking account in particular of the costs of supplying the products from the world market.

- (3) Pending the entry into force of the reform of the specific supply arrangements and in order to avoid any break in the application of the specific supply arrangements in force, the supply balance should be established for the period 1 July to 31 December 2001.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2168/92 is replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 2001.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 217, 31.7.1992, p. 44.

⁽⁴⁾ OJ L 158, 29.6.2000, p. 9.

ANNEX

‘ANNEX

Supply balance of seed potatoes to the Canary Islands for the period from 1 July to 31 December 2001

Product (CN code)	Quantity (in tonnes)	Aid for the supply (per 100 kg)
Seed potatoes (0701 10 00)	6 000	EUR 4,226'

COMMISSION REGULATION (EC) No 1381/2001**of 6 July 2001****amending Regulation (EEC) No 2225/92 on the detailed rules for the implementation of the specific arrangements for the supply of hops to Madeira**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira with regard to certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Common detailed rules for the implementation of the specific arrangements for the supply of certain agricultural products to the Azores and Madeira are laid down in Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾.
- (2) For the purposes of applying Article 2 of Regulation (EEC) No 1600/92, the forecast supply balance for Madeira should be established for products in the hop sector. That balance must be established on the basis of the requirements of the region. The Annex to Commission Regulation (EEC) No 2225/92 ⁽⁵⁾, as last amended

by Regulation (EC) No 1385/2000 ⁽⁶⁾, should accordingly be replaced by the Annex hereto.

- (3) Pending the entry into force of the reform of the specific supply arrangements and in order to avoid any break in the application of the specific supply arrangements in force, the supply balance should be established for the period 1 July to 31 December 2001.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Hops,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2225/92 is replaced by the Annex hereto.

Article 2

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

It shall apply from 1 July 2001.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 1.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 179, 1.7.1992, p. 6.

⁽⁴⁾ OJ L 238, 23.9.1993, p. 24.

⁽⁵⁾ OJ L 218, 1.8.1992, p. 91.

⁽⁶⁾ OJ L 158, 30.6.2000, p. 4.

ANNEX

‘ANNEX

Supply balance for hops for Madeira for the marketing period 1 July 2001 to 31 december 2001

<i>(tonnes)</i>	
Product (CN code)	Madeira
Hops (1210)	2,5'

COMMISSION REGULATION (EC) No 1382/2001
of 6 July 2001
amending Regulation (EEC) No 2224/92 on the detailed rules for the implementation of the specific
arrangements for the supply of hops to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Common detailed rules for the implementation of the specific arrangements for the supply of certain agricultural products to the Canary Islands are laid down in Commission Regulation (EC) No 2790/94 ⁽³⁾, as last amended by Regulation (EC) No 1620/1999 ⁽⁴⁾.
- (2) For the purposes of applying Article 2 of Regulation (EEC) No 1601/92, the forecast supply balance for the Canary Islands should be established for products in the hop sector. That balance must be established on the basis of the requirements of the region. The Annex to Commission Regulation (EEC) No 2224/92 ⁽⁵⁾, as last

amended by Regulation (EC) No 1384/2000 ⁽⁶⁾, should accordingly be replaced by the Annex hereto.

- (3) Pending the entry into force of the reform of the specific supply arrangements and in order to avoid any break in the application of the specific supply arrangements in force, the supply balance should be established for the period 1 July to 31 December 2001.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Hops,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2224/92 is replaced by the Annex hereto.

Article 2

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

It shall apply from 1 July 2001.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 296, 17.11.1994, p. 23.

⁽⁴⁾ OJ L 192, 24.7.1999, p. 19.

⁽⁵⁾ OJ L 218, 1.8.1992, p. 89.

⁽⁶⁾ OJ L 158, 30.6.2000, p. 3.

ANNEX

'ANNEX

Supply balance for hops for the Canary Islands for the marketing period 1 July to 31 December 2001*(tonnes)*

Product (CN code)	Canary Islands
Hops (1210)	25'

COMMISSION REGULATION (EC) No 1383/2001**of 6 July 2001****amending Regulation (EC) No 1372/95 laying down detailed rules for implementing the system of export licences in the poultrymeat sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾, as last amended by Regulation (EC) No 2916/95 ⁽²⁾, and in particular Articles 3(2), 8(13) and 15 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1372/95 ⁽³⁾, as last amended by Regulation (EC) No 2337/1999 ⁽⁴⁾, lays down the detailed rules for implementing the system of export licences in the poultrymeat sector.
- (2) Commission Regulation (EC) No 1291/2000 ⁽⁵⁾ lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products. Article 14 of that Regulation lays down that the export licences must show the 12-digit code of the product taken from the nomenclature of agricultural products for use with export refunds, or the codes for products falling within the same category.
- (3) In the light of the experience gained and with a view to facilitating the use of the licences for the various presentations of whole chickens currently falling within

different product categories, all the products in question should be exported under the same licence. The product categories laid down in Annex I to Regulation (EC) No 1372/95 should therefore be amended by adding the products falling within category 4 to category 3.

- (4) The securities fixed in Annex I must be adjusted to the recent changes in refunds, and the list of countries in Annex IV must reflect the destinations currently proposed.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and IV to Regulation (EC) No 1372/95 are replaced by the corresponding Annexes to this Regulation.

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, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 77.

⁽²⁾ OJ L 305, 19.12.1995, p. 49.

⁽³⁾ OJ L 133, 17.6.1995, p. 26.

⁽⁴⁾ OJ L 281, 4.11.1999, p. 21.

⁽⁵⁾ OJ L 152, 24.6.2000, p. 1.

ANNEX I

'ANNEX I

Product code of the agricultural product nomenclature for export refunds ⁽¹⁾	Category	Rate of the security (EUR/100 kg net weight)
0105 11 11 9000 0105 11 19 9000 0105 11 91 9000 0105 11 99 9000	1	—
0105 12 00 9000 0105 19 20 9000	2	—
0207 12 10 9900 0207 12 90 9990 0207 12 90 9190	3	6 ⁽²⁾ 6 ⁽³⁾ 6 ⁽⁴⁾
0207 25 10 9000 0207 25 90 9000	5	3
0207 14 20 9900 0207 14 60 9900 0207 14 70 9190 0207 14 70 9290	6 (a) ⁽⁴⁾	2
0207 14 20 9900 0207 14 60 9900 0207 14 70 9190 0207 14 70 9290	6 (b) ⁽⁵⁾	2
0207 27 10 9990	7	3
0207 27 60 9000 0207 27 70 9000	8	3

⁽¹⁾ Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), Part 7.

⁽²⁾ For destinations shown in Annex III.

⁽³⁾ Destinations other than those shown in Annexes III and IV.

⁽⁴⁾ Destinations shown in Annex IV.

⁽⁵⁾ Destinations other than those shown in Annex IV.'

ANNEXE II

'ANNEX IV

Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine'.

COMMISSION REGULATION (EC) No 1384/2001**of 6 July 2001****amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 1365/2000 ⁽²⁾, and in particular Article 13(12) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds ⁽³⁾, as last amended by Regulation (EC) No 2849/2000 ⁽⁴⁾, establishes a nomenclature of agricultural products for export refunds based on the Combined Nomenclature.
- (2) Commission Regulation (EC) No 1230/2001 of 21 June 2001 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽⁵⁾ amends Additional Notes 2.A(a), 2.A(c) and 2.C to Chapter 2 of the Combined Nomenclature with a view to ensuring that it is applied uniformly as regards the classification of chaps and jowls.
- (3) In the wake of those amendments, the list of products eligible for export refunds should be clarified on certain points, in particular as regards carcasses and half-carcasses, shoulders, fore-ends, and chaps and jowls

together, presented alone, in order to enable the export nomenclature to be applied uniformly throughout the Member States.

- (4) Some of those clarifications can justifiably be applied to applications currently pending as regards the eligibility of products, given the high number of such applications.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

Sector 6 of Annex I to Regulation (EEC) No 3846/87 is hereby replaced by the Annex hereto.

Article 2

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

It shall apply from 30 July 2001. Footnotes 12, 13 and 14 of the Annex shall, however, apply to operations where no final decision on payment or release of the security or on further action regarding ex post checks conducted has been taken at the time of entry into force of this Regulation.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 366, 24.12.1987, p. 1.

⁽⁴⁾ OJ L 335, 30.12.2000, p. 1.

⁽⁵⁾ OJ L 168, 23.6.2001, p. 6.

ANNEX

‘6. Pigmeat

CN code	Description of goods	Product code
ex 0103	Live swine:	
	– Other:	
ex 0103 91	– – Weighing less than 50 kg:	
0103 91 10	– – – Domestic species	0103 91 10 9000
ex 0103 92	– – Weighing 50 kg or more:	
	– – – Domestic species:	
0103 92 19	– – – – Other	0103 92 19 9000
ex 0203	Meat of swine, fresh, chilled or frozen:	
	– Fresh or chilled:	
ex 0203 11	– – Carcasses and half-carcasses:	
0203 11 10	– – – Other domestic swine ⁽¹²⁾	0203 11 10 9000
ex 0203 12	– – Hams, shoulders and cuts thereof, with bone in:	
	– – – Of domestic swine:	
ex 0203 12 11	– – – – Legs and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 12 11 9100
ex 0203 12 19	– – – – Shoulders and cuts thereof ⁽¹³⁾ :	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 12 19 9100
ex 0203 19	– – Other:	
	– – – Of domestic swine:	
ex 0203 19 11	– – – – Fore-ends and cuts thereof ⁽¹⁴⁾ :	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 19 11 9100
ex 0203 19 13	– – – – Loins and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 19 13 9100
ex 0203 19 15	– – – – Bellies (streaky) and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 15 % by weight	0203 19 15 9100
	– – – – Other:	
ex 0203 19 55	– – – – – Boneless:	
	– – – – – – Legs, fore-ends, shoulders or loins, and cuts thereof ⁽¹⁾ ⁽¹¹⁾ ⁽¹³⁾ ⁽¹⁴⁾ ⁽¹⁵⁾	0203 19 55 9110
	– – – – – – Bellies, and cuts thereof, with a total cartilage content of less than 15 % by weight ⁽¹⁾ ⁽¹¹⁾	0203 19 55 9310
	– Frozen:	
ex 0203 21	– – Carcasses and half-carcasses:	
0203 21 10	– – – Of domestic swine ⁽¹²⁾	0203 21 10 9000
ex 0203 22	– – Hams, shoulders and cuts thereof, with bone in:	
	– – – Of domestic swine:	
ex 0203 22 11	– – – – Hams and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 22 11 9100
ex 0203 22 19	– – – – Shoulders and cuts thereof ⁽¹³⁾ :	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 22 19 9100

CN code	Description of goods	Product code
ex 0203 29	-- Other:	
	--- Of domestic swine:	
ex 0203 29 11	---- Fore-ends and cuts thereof ⁽¹⁴⁾ :	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 29 11 9100
ex 0203 29 13	---- Loins and cuts thereof:	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 29 13 9100
ex 0203 29 15	---- Bellies (streak) and cuts thereof:	
	----- With a total bone and cartilage content of less than 15 % by weight	0203 29 15 9100
	---- Other:	
ex 0203 29 55	----- Boneless:	
	----- Legs, fore-ends, shoulders and cuts thereof ⁽¹⁾ ⁽¹³⁾ ⁽¹⁴⁾ ⁽¹⁵⁾ ⁽¹⁶⁾	0203 29 55 9110
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked: edible flours and meals of meat or meat offal:	
	- Meat of swine:	
ex 0210 11	-- Hams, shoulders and cuts thereof, with bone in:	
	--- Of domestic swine:	
	---- Salted or in brine:	
ex 0210 11 11	----- Hams and cuts thereof:	
	----- With a total bone and cartilage content of less than 25 % by weight	0210 11 11 9100
	---- Dried or smoked	
ex 0210 11 31	----- Hams and cuts thereof:	
	----- "Prosciutto di Parma", "Prosciutto di San Daniele" ⁽²⁾	
	----- With a total bone and cartilage content of less than 25 % by weight	0210 11 31 9110
	----- Other:	
	----- With a total bone and cartilage content of less than 25 % by weight	0210 11 31 9910
ex 0210 12	-- Bellies (streaky) and cuts thereof:	
	--- Of domestic swine:	
ex 0210 12 11	---- Salted or in brine:	
	----- With a total bone and cartilage content of less than 15 % by weight	0210 12 11 9100
ex 0210 12 19	---- Dried or smoked:	
	----- With a total bone and cartilage content of less than 15 % by weight	0210 12 19 9100
ex 0210 19	-- Other:	
	--- Of domestic swine:	
	--- Salted or in brine:	
ex 0210 19 40	----- Loins and cuts thereof:	
	----- With a total bone and cartilage content of less than 25 % by weight	0210 19 40 9100
	----- Other:	
ex 0210 19 51	----- Boneless:	
	----- Hams, fore-ends, shoulders or loins, and cuts thereof ⁽¹⁾	0210 19 51 9100
	----- Bellies and cuts thereof, derinded ⁽¹⁾ :	
	----- With a total cartilage content of less than 15 % by weight	0210 19 51 9310
	---- Dried or smoked:	
	----- Other:	

CN code	Description of goods	Product code
ex 0210 19 81	----- Boneless: ----- "Prosciutto di Parma", "Prosciutto di San Daniele" and cuts thereof ⁽²⁾ ----- Hams, fore-ends, shoulders or loins, and cuts thereof ⁽¹⁾	0210 19 81 9100 0210 19 81 9300
ex 1601 00	Sausages and similar products, of meat, meat offal or blood: food preparations based on those products: - Other ⁽⁸⁾ :	
1601 00 91	-- Sausages, dry or for spreading uncooked ⁽⁴⁾ ⁽⁶⁾ : --- Not containing the meat or offal of poultry --- Other	1601 00 91 9120 1601 00 91 9190
1601 00 99	-- Other ⁽³⁾ ⁽⁶⁾ : --- Not containing the meat or offal of poultry --- Other	1601 00 99 9110 1601 00 99 9190
ex 1602	Other prepared or preserved meat, meat offal or blood: - Of swine	
ex 1602 41	-- Hams and cuts thereof:	
ex 1602 41 10	--- Of domestic swine ⁽⁷⁾ : ---- Cooked, containing by weight 80 % or more of meat and fat ⁽⁸⁾ ⁽⁹⁾	1602 41 10 9210
ex 1602 42	-- Shoulders and cuts thereof:	
ex 1602 42 10	--- Of domestic swine ⁽⁷⁾ : ---- Cooked, containing by weight 80 % or more of meat and fat ⁽⁸⁾ ⁽⁹⁾	1602 42 10 9210
ex 1602 49	-- Other, including mixtures: --- Of domestic swine: ---- Containing by weight 80 % or more of meat or meat offal, of any kind, including fats of any kind or origin:	
ex 1602 49 19	----- Other ⁽⁷⁾ ⁽⁸⁾ ⁽¹⁰⁾ : ----- Cooked: ----- Not containing the meat or offal of poultry ----- Other	1602 49 19 9120 1602 49 19 9190

⁽¹⁾ The products and cuts thereof may be classified in this subheading only if the size and the characteristics of the coherent muscle, tissue, enable them to be identified as coming from the primary cuts mentioned. The expression "cuts thereof" applies to products with a net unit weight of at least 100 grams or to products cut into uniform slices which can be clearly identified as coming from the primary cut mentioned and which are packed together with a net overall weight of at least 100 grams.

⁽²⁾ Only those products for which the name is certified by the competent authorities of the producing Member State can benefit from this refund.

⁽³⁾ The refund on sausages presented in containers with a preservative liquid is granted on net weight after deduction of weight of this liquid.

⁽⁴⁾ The weight of a coating of paraffin corresponding to normal use in the trade is considered as part of the net weight of the sausage.

⁽⁵⁾ Deleted by Commission Regulation (EC) No 2333/97 (OJ L 323, 26.11.1997, p. 25).

⁽⁶⁾ If composite food preparations (including prepared dishes) containing sausages, are classified within heading No 1601 because of their composition, the refund is granted only on the net weight of the sausages, the meat and the offal, including fats of any kind or origin, which make part of those preparations.

⁽⁷⁾ The refund on products containing bones is granted on the net weight of the product after deduction of the weight of the bones.

⁽⁸⁾ Grant of the refund is subject to compliance with the conditions laid down in Commission Regulation (EC) No 2331/97 (OJ 323, 26.11.1997, p. 19). At the time of the conclusion of customs export formalities the exporter shall declare in writing that the products in question fulfil those conditions.

⁽⁹⁾ The meat and fat content is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EEC) No 1583/89 (OJ L 156, 8.6.1989, p. 13).

⁽¹⁰⁾ The content of meat or meat offal, of any kind, including fats of any kind or origin, is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EEC) No 226/89 (OJ L 29, 31.1.1989, p. 13).

⁽¹¹⁾ Freezing of the products pursuant to the first paragraph of Article 7(3) and Article 29(4)(g) of Regulation (EC) No 800/1999 is not permitted.

⁽¹²⁾ Carcasses of half-carcasses may be presented with or without the chaps.

⁽¹³⁾ Shoulders may be presented with or without the chaps.

⁽¹⁴⁾ Fore-ends may be presented with or without the chaps.

⁽¹⁵⁾ Jowls, chaps or chaps and jowls together, presented alone, do not benefit from this refund.

⁽¹⁶⁾ Boneless neck-ends, presented alone, do not benefit from this refund.

COMMISSION REGULATION (EC) No 1385/2001
of 6 July 2001
on issuing A2 export licences for 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 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 298/2000 ⁽²⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1185/2001 ⁽³⁾ set the indicative refund rates and the indicative quantities for A2 export licences, other than those applied for in the context of food aid.
- (2) For tomatoes, lemons, table grapes, apples and peaches, including nectarines, in view of the economic situation and taking account of information received by operators via their applications for A2 licences, the definitive refund rates should be set at a different rate from the indicative rates. The percentages for the issuing of licences for the quantities applied for should also be set. The definitive rates may not be more than 50 % more than the indicative rates.

- (3) Pursuant to Article 3(5) of Regulation (EC) No 2190/96, applications for rates in excess of the corresponding definitive rates shall be considered null and void,

HAS ADOPTED THIS REGULATION:

Article 1

1. For A2 export licences for which applications have been submitted pursuant to Article 1 of Regulation (EC) No 1185/2001 the actual date of application referred to in the second subparagraph of Article 3(1) of Regulation (EC) No 2190/96 is hereby set at 9 July 2001.
2. The licences referred to in the first paragraph shall be issued at the definitive refund rates and at the percentages for the quantities applied for as indicated in the Annex to this Regulation.
3. Pursuant to Article 3(5) of Regulation (EC) No 2190/96, applications referred to in the first paragraph for rates in excess of the corresponding definitive rates set out in the Annex shall be considered null and void.

Article 2

This Regulation shall enter into force on 7 July 2001.

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

Done at Brussels, 6 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15.11.1996, p. 12.

⁽²⁾ OJ L 34, 9.2.2000, p. 16.

⁽³⁾ OJ L 161, 15.6.2001, p. 26.

ANNEX

Product	Definitive refund rates (EUR/t net)	Percentages for the issuing of licences
Tomatoes	27	100 %
Oranges	—	—
Lemons	52	45 %
Table grapes	12	84 %
Apples	1	84 %
Peaches, including nectarines	15	73 %

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 May 2001

on the signature and provisional application of the Additional Protocol to the Agreement establishing an association between the European Economic Community and the Republic of Malta, to associate Malta to the Fifth Framework Programme for Research, Technological Development and Demonstration (1998-2002)

(2001/516/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) The Agreement establishing an association (hereinafter referred to as 'the Association Agreement') between the European Economic Community and the Republic of Malta, (hereinafter referred to as 'Malta') ⁽¹⁾ entered into force on 1 April 1971.
- (2) The conclusions of the Luxembourg European Council of 12-13 December 1997 confirmed the possibility of associating candidate countries to the Community's Framework Programme in the field of research and technological development as one of the instruments of the pre-accession strategy to be applied to these countries.
- (3) By Decision No 182/1999/EC ⁽²⁾, the European Parliament and the Council adopted the Fifth Framework Programme of the European Community in the field of Research and Technological Development and Demonstration (1998-2002) (hereinafter referred to as the 'Fifth Framework Programme').
- (4) The Helsinki European Council of 10-11 December 1999 decided to convene a bilateral intergovernmental conference on the accession of Malta to the European Union.

- (5) On 3 April 2000 Malta formally informed the European Commission that it wished such an association with the Fifth Framework Programme from 1 January 2001.
- (6) By its Decision of 17 October 2000, the Council authorised the Commission to negotiate on behalf of the European Community an Additional Protocol to the Association Agreement, to associate Malta to the Fifth Framework Programme (hereinafter referred to as 'the Additional Protocol').
- (7) Subject to its possible conclusion at a later date, the Additional Protocol initialled on 6 December 2000 should be signed on behalf of the Community.
- (8) It is appropriate to apply the Additional Protocol on a provisional basis as from 1 March 2001 pending the completion of the procedures for its conclusion, subject to reciprocity,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the European Community, the Additional Protocol to the Agreement establishing an Association between the European Economic Community and the Republic of Malta.

The text of the Additional Protocol is annexed to this Decision.

Article 2

The Additional Protocol shall be applied on a provisional basis as from 1 March 2001, subject to reciprocity, pending the completion of the procedures for its conclusion.

⁽¹⁾ OJ L 61, 14.3.1971, p. 1.

⁽²⁾ OJ L 26, 1.2.1999, p. 1.

Article 3

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 22 May 2001.

For the Council
The President
M. WINBERG

ADDITIONAL PROTOCOL
to the agreement establishing an association between the European economic community and the
republic of Malta

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

of the one part, and

THE REPUBLIC OF MALTA, hereinafter referred to as 'Malta',

of the other part,

WHEREAS the Agreement establishing an Association between the European Economic Community and the Republic of Malta (hereinafter referred to as 'the Association Agreement'), entered into force on 1 April 1971;

WHEREAS the European Council at its meeting in Helsinki on 10 and 11 December 1999 decided to convene a bilateral intergovernmental conference on the accession of Malta to the European Union;

WHEREAS the European Council at its meeting in Luxembourg on 12 and 13 December 1997 had called for the opening of certain Community programmes (such as in the field of research) to the candidate countries, as a way of familiarising themselves with the policies and working methods of the Union, each candidate country being expected to make a steadily increasing financial contribution of its own;

WHEREAS the aforementioned conclusions of the European Council also called for the participation of the candidate countries, as observers and for the points which concern them, in the committees assisting the Commission in the implementation of the programmes to which they contribute financially;

WHEREAS, by Decision No 182/99/EC, the European Parliament and the Council of the European Union adopted a Framework Programme of the European Community activities in the field of research and technological development and demonstration (1998-2002), hereinafter called the 'Fifth Framework Programme';

WHEREAS, by letter dated 3 April 2000, the Government of Malta requested its association to the Fifth Framework Programme from 1 January 2001,

HAVE AGREED AS FOLLOWS:

Article 1

1. Research entities established in Malta, in accordance with Maltese law, may participate in all the specific programmes of the Fifth Framework Programme. Maltese scientists or research entities may participate in the activities of the Joint Research Centre.

2. Research entities established in the Community may participate in research programmes and projects in Malta in themes equivalent to those of the programmes of the Fifth Framework Programme.

3. For the purposes of this Protocol, 'Research entities' shall include *inter alia*: universities, organisations engaged in research activities, industrial companies, including small and medium-sized enterprises, and natural persons.

Article 2

Cooperation may take the following forms:

1. participation of research entities established in Malta in the implementation of all specific programmes adopted under the Fifth Framework Programme, in accordance with the terms and conditions laid down in the 'Rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community';

2. financial contribution by Malta to the budgets of the programmes adopted for the implementation of the Fifth Framework Programme on the basis of the ratio of the GDP of Malta to that of the Member States of the European Union;

3. participation of research entities established in the Community in Maltese research projects and rights to their results, in accordance with the laws of Malta in every case, and shall require the joint participation of at least one Maltese research entity. Research entities established in the Community participating in Maltese research projects within research and development programmes shall cover their own costs, including their relative share of the project's general management and administrative costs;

4. timely provision of information concerning the implementation of RTD programmes in Malta and the Community, and concerning the results of work undertaken within the framework of cooperation;

5. cooperation may be adapted and developed at any time by mutual agreement between the Parties.

Article 3

1. Research entities established in Malta participating in Community research programmes, shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as those of research entities established in the Community, subject to the provisions of Annex A.

2. Research entities established in the Community, taking part in Maltese research projects within research and development programmes, shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as those of Maltese research entities in the project in question.

Article 4

A joint committee shall be established under this Protocol, to be called 'EC-Malta Research Committee', whose functions shall include:

- reviewing, evaluating and discussing measures to ensure the implementation of this Protocol,
- examining any measure of a nature to improve and develop cooperation.

The committee, which shall be composed of representatives of the Commission and of Malta, shall adopt its rules of procedure.

It shall meet at the request of any of the Parties and at least once a year.

Article 5

1. The financial contribution of Malta deriving from participation in the implementation of the specific programmes shall be established in proportion to, and in addition to, the amount available each year in the general budget of the European Union for commitment appropriations to meet the Commission's financial obligations stemming from work to be carried out in the forms necessary for the implementation, management and operation of these programmes.

2. The proportionality factor governing the contribution of Malta shall be obtained by establishing the ratio between the gross domestic product of Malta, at market prices, and the sum of gross domestic products, at market prices, of the Member States of the European Union and Malta. This ratio shall be calculated on the basis of the latest statistical data from the Statistical Office of the European Communities (Eurostat) pertaining on the same year, available at the time of publication of the preliminary draft budget of the European Union.

3. In order to facilitate its participation in the specific programmes, the contribution of Malta will be implemented as follows:

- 2001: contribution according to the proportionality factor fixed in accordance with paragraph 2, multiplied by 0,5;
- 2002: contribution according to the proportionality factor fixed in accordance with paragraph 2 multiplied by 0,9.

4. The rules governing the financial contribution of Malta are set out in Annex B.

5. The rules for financial participation by the Community are set out in Annex IV of Decision 182/99/EC.

Article 6

1. Without prejudice to the provisions of Article 3, research entities established in Malta participating in the Fifth Framework Programme shall have the same contractual rights and obligations as entities established in the Community, taking into account the mutual interests of the Community and Malta.

2. For Maltese research entities, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of contracts under Community programmes shall be the same as those applicable for contracts concluded under the same programmes with research entities in the Community, taking into account the mutual interests of the Community and Malta.

3. Maltese experts shall be taken into consideration, alongside Community experts, in the selection of evaluators or experts under the Community's RTD programmes and as members of the advisory groups and other consultative bodies which assist the Commission in the implementation of the Fifth Framework Programme.

4. Without prejudice to the provisions of Article 3, research entities established in the Community participating in research projects within research and development programmes shall have the same contractual rights and obligations as Maltese entities, taking into account the mutual interests of the Community and Malta.

5. A Maltese research entity may be coordinator of a project under the same terms and conditions applicable to entities established in the Community. In conformity with the Financial Regulation applicable to the general budget of the European Communities, contractual arrangements concluded with, or by, Maltese research entities shall provide for controls and audits to be carried out by, or under the authority of, the Commission and the Court of Auditors. As far as financial audits are concerned, they may be carried out with the purpose of controlling such entities' income and expenditures, related to the contractual obligations towards the Community. In a spirit of cooperation and mutual interest, the relevant Maltese authorities shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

6. For research entities from the Community, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of contracts for projects within Maltese programmes shall be equivalent to those applicable for contracts concluded under the same research and development programmes with research entities in Malta, taking into account the mutual interests of the Community and Malta.

Article 7

1. Each Party undertakes, in accordance with its own rules and regulations, to facilitate the movement and residence of research workers participating, in Malta and in the Community, in the activities covered by this Protocol and to facilitate cross border movement of goods intended for use in such activities.

2. Cooperation under this Protocol shall be exempt from Maltese indirect taxes, customs duties, prohibitions and restrictions on imports and exports in respect of goods and services intended for use under such cooperation.

Article 8

1. Maltese representatives will, for the points which concern them, participate as observers in the programme committees of the Fifth Framework Programme. These committees shall meet without the presence of Maltese representatives at the time of voting. Malta will be informed.

2. Participation as referred to in paragraph 1 shall take the same form, including procedures for receipt of information and documentation, as that applicable to participants from Member States.

Article 9

1. This Protocol is concluded for the years 2001 and 2002.

2. Subject to paragraph 1, either of the Parties may terminate this Protocol at any time upon twelve months' notice in writing. Projects and activities in progress at the time of termination and/or expiry of this Protocol shall continue until their completion under the conditions laid down in this Protocol.

3. Should the Community decide to revise one or more Community programmes, this Protocol may be terminated under mutually agreed conditions. Malta shall be notified of the exact content of the revised programmes within one week of

their adoption by the Community. The Parties shall notify one another, within one month after the adoption of the Community decision, of any intention to terminate this Protocol.

4. Where the Community adopts a new multi-annual framework programme for research and development, this Protocol may be renegotiated or renewed under mutually agreed conditions.

Article 10

This Protocol shall enter into force on the date on which the Parties have notified each other of the completion of the procedures necessary for the purpose.

In the meantime, the Protocol shall be applied provisionally in all its elements from 1 March 2001, subject to reciprocity.

Article 11

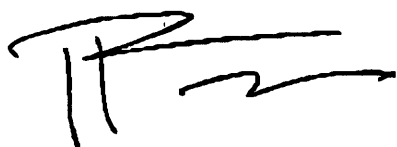
This Protocol including Annexes A and B thereto forms an integral part of the Agreement establishing an Association between the European Economic Community and the Republic of Malta.

Article 12

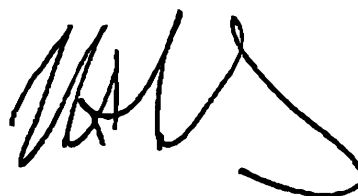
This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Maltese languages, each of these texts being equally authentic.

Done at Brussels, 20 June 2001.

For the European Community



For the Republic of Malta



ANNEX A

PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS

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

I. APPLICATION

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

II. OWNERSHIP, ALLOCATION AND EXERCISE OF RIGHTS

1. For purposes of this Protocol 'intellectual property' shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, 14 July 1967.
2. This Annex addresses the allocation of rights, interests and royalties of the Parties and their Participants. Each Party and its participants shall ensure that the other Party and its participants may obtain the rights to intellectual property allocated to it in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation of rights, interests and royalties between a Party and its nationals or participants, which shall be determined by the laws and practices applicable to each party.
3. The following principles shall apply and shall be provided for in the contractual arrangements:
 - (a) adequate protection of intellectual property. The Parties, their agencies and/or their participants, as appropriate, shall ensure that they notify one another within a reasonable time of the creation of any intellectual property arising under this Protocol or implementing arrangements and to seek protection for such intellectual property in a timely fashion;
 - (b) taking account of the contributions of the Parties or their participants in determining the rights and interests of the Parties and participants;
 - (c) effective exploitation of results;
 - (d) non-discriminatory treatment of participants from the other party as compared with the treatment given to its own participants;
 - (e) protection of Business-Confidential information.
4. The participants shall jointly develop a Technology Management Plan (TMP) in respect of the ownership and use, including publication, of information and intellectual property to be created in the course of joint research. The indicative features of a TMP are contained in the Appendix to this Protocol. The TMP shall be approved by the responsible funding agency or department of the Party involved in financing the research, before the conclusion of the specific research and development cooperation contract to which it is attached.

The TMPs shall be developed taking into account the aims of the joint research, the relative financial or other contributions of the Parties or participants, the advantages and disadvantages of licensing by territory or for fields of use, the transfer of export-controlled data, goods or services, requirements imposed by the applicable laws including those of the Parties concerning intellectual property rights and other factors deemed appropriate by the participants.

The rights and obligations concerning the research generated by visiting researchers in respect of intellectual property shall also be addressed in the joint technology management plans.

5. Subject to the specific provisions of the Parties concerning intellectual property rights, information or intellectual property created in the course of joint research and not addressed in the technology management plan shall be allocated, with the approval of the Parties, according to the principles set out in the technology management plan. In case of disagreement, such information or intellectual property shall be owned jointly by all the participants involved in the joint research from which the information or intellectual property results. Each participant to whom this provision applies shall have the right to use such information or intellectual property for his own commercial exploitation with no geographical limitation.
6. Each Party shall ensure that the other Party and its participants may have the rights to intellectual property allocated to them in accordance with these principles.
7. While maintaining the conditions of competition in areas affected by the Protocol, each Party shall endeavour to ensure that rights acquired pursuant to this Protocol and arrangements made under it are exercised in such a way as to encourage, in particular: (i) the dissemination and use of information created, disclosed or otherwise made available, under the Protocol, and (ii) the adoption and implementation of international standards.

8. Termination or expiry of this Protocol shall not affect rights or obligations under this Annex.

III. COPYRIGHT WORKS

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the TRIPS Agreement (Agreement on Trade Related Aspects of Intellectual Property Rights administered by the World Trade Organisation) as well as the Berne Convention (Paris Act 1971).

IV. SCIENTIFIC LITERARY WORKS

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

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

V. UNDISCLOSED INFORMATION

A. Documentary undisclosed information

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

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

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

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

3. Undisclosed information communicated under this Protocol may be disseminated by the receiving Party or its organisation to persons within or employed by the receiving Party or organisation authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognisable as such, as set out above.
4. With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3 above. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. Non-documentary undisclosed information

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

C. Control

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

*Appendix***Indicative features of a Technology Management Plan (TMP)**

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

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

ANNEX B

FINANCIAL RULES GOVERNING THE FINANCIAL CONTRIBUTION OF MALTA REFERRED TO IN ARTICLE 5 OF THIS PROTOCOL**1. Determination of the financial participation**

1.1. The Commission of the European Communities shall communicate to Malta, and inform the committee referred to in Article 4 of this Protocol, as soon as possible, and at the latest on 1 September of each financial year, the following information together with relevant background documentation:

- (a) the amounts in commitment appropriations, in the statement of expenditure of the preliminary draft budget of the European Union corresponding to the Fifth Framework Programme;
- (b) the estimated amount of the contributions derived from the preliminary draft budget, corresponding to the participation of Malta in the Fifth Framework Programme.

Nonetheless, in order to facilitate internal budgetary procedures, the Commission services shall provide corresponding indicative figures at the latest on 30 May of each year.

1.2. As soon as the general budget has been finally adopted the Commission shall communicate to Malta the above amounts in the statement of expenditure corresponding to the participation of Malta.

2. Payment procedures

2.1. The Commission shall issue, at the latest on 1 January and 15 June of each financial year, a call for funds to Malta corresponding to its contribution under this Protocol. These calls for funds shall provide, respectively, for the payment:

- of six-twelfths of the contribution of Malta not later than 20 February,
- and six-twelfths of its contribution not later than 15 July.

However, the six-twelfths, to be paid not later than 20 February are calculated on the basis of the amount set out in the statement of revenue of the preliminary draft budget; the regularisation of the amount thus paid shall occur with the payment of the six-twelfths not later than 15 July.

2.2. For the first year of implementation of this protocol, the Commission shall issue a first call for funds within 30 days of its entry into force. Should this call be issued after 15 June, it shall provide for the payment of twelve/twelfths of the contribution of Malta within 30 days, calculated on the basis of the amount set out in the statement of the revenue of the budget.

2.3. The contribution of Malta shall be expressed and paid in euro.

2.4. Malta shall pay its contribution under this Protocol according to the schedule in paragraphs 2.1. and 2.2. Any delay in payment shall give rise to the payment of interest at a rate equal to the one-month interbank offered rate (EURIBOR) in euro as quoted on Telerate. This rate shall be increased by 1,5 % for each month of delay. The increased rate shall be applied to the entire period of delay. However, the interest shall be due only if the contribution is paid more than thirty days after the scheduled payment dates mentioned in paragraphs 2.1. and 2.2. above.

2.5. Travel costs incurred by Maltese representatives and experts for the purposes of taking part in the work of the committee referred to in Articles 4, 6.3 and 8.1 of this Protocol and those involved in the implementation of the Fifth Framework Programme shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for the representatives and experts of the Member States of the European Union.

3. Conditions for the implementation

3.1. The financial contribution of Malta to the Fifth Framework Programme in accordance with Article 5 of this Protocol shall normally remain unchanged for the financial year in question.

3.2. The Commission, at the time of the closure of the accounts relating to each financial year (n), within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with respect to the participation of Malta, taking into consideration modifications which have taken place, either by transfer, cancellations, carry-overs, decommitments, or by supplementary and amending budgets during the financial year. This regularisation shall occur at the time of the second payment for the year n + 1. Further regularisations shall occur every year until July 2006.

Payment by Malta shall be credited to the Committee programmes as budget receipts allocated to the appropriate budget heading in the statement of revenue of the general budget of the European Union.

The Financial Regulation applicable to the general budget of the European Communities shall apply to the management of the appropriations.

4. Information

At the latest on 31 May of each financial year (n + 1), the statement of appropriations for the Fifth Framework Programme related to the previous financial year (n), shall be prepared and transmitted to Malta for information, according to the format of the Commission's revenue and expenditure account.

COMMISSION

COMMISSION DECISION
of 13 February 2001
on the State aid implemented by the Netherlands for SCI-Systems
(notified under document number C(2001) 402)
(Only the Dutch version is authentic)
(Text with EEA relevance)

(2001/517/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) In November 1997 SCI-Systems Netherlands BV (hereinafter referred to as 'SCI') selected the 'Internationaal Bedrijvenpark Friesland' (hereinafter referred to as 'IBF'), a business park in Heerenveen (province of Friesland), as the site to build a factory for the assembly of desktop personal computers (hereinafter referred to as 'PCs') for Hewlett-Packard.
- (2) By letter dated 3 March 1998 (registered on 11 March 1998 under A/32006), a private third party alleged that aid going beyond the Commission-approved regional aid scheme ('Investeringspremieregeling' (IPR) ⁽²⁾) had been granted. The regional authorities had allegedly promised additional ad hoc aid in order to attract the investment project to Heerenveen in the face of strong competition from other potential sites in the Netherlands. By letters of 20 March 1998 (D/51297) and 28 October 1998 (D/54393), the Commission requested additional information from the Dutch authorities. By letters dated 19 May 1998 (registered on 25 May 1998 under A/33974), and 4 January 1999 (registered on 6 January 1999 under A/30095) the Dutch authorities provided that information. The third party provided more information and sent newspaper articles concerning the case by letters of 10 October 1998 (registered on 6 November 1998 under A/38015) and 15 January 1999 (registered on 20 January 1999 under C00231).

⁽¹⁾ OJ C 144, 22.5.1999, p. 4.

⁽²⁾ The scheme is now called 'Besluit Subsidieregeling Regionale Investeringsprojecten'.

- (3) By its Decision of 6 February 1999, the Commission issued an 'Italgrani' injunction ⁽³⁾ with respect to aid granted under the IPR scheme and initiated the procedure in Article 88(2) of the EC Treaty in respect of several further ad hoc aid measures. By letter dated 9 March 1999 (D/01700), it informed the Netherlands of the Decision. The Decision was published in the *Official Journal of the European Communities* ⁽⁴⁾. The Commission invited interested parties to submit their comments on the aid.
- (4) The Commission received two comments from interested parties (letter of 1 June 1999, registered on 8 June 1999 under A/34233, and letter of 7 June 1999, registered on 11 June 1999 under A/34377). By letter of 28 June 1999 (D/62723), it forwarded them to the Netherlands, which was given the opportunity to react. The Netherlands reacted to the initiation of the procedure by letter dated 13 April 1999 (registered on 14 April 1999 under A/32920). It sent its views on the comments from third parties by letter of 2 August 1999 (registered on 3 August 1999 under A/36064). One of the third parties sent further information by letter of 18 June 1999 (registered on 24 June 1999 under A/34661).
- (5) As important information was still missing, the Commission, by letters of 20 October 1999 (D/64378), 15 May 2000 (D/52950), 14 September 2000 (D/54696) and 4 October 2000 (D/55028) requested further information. The Dutch authorities asked for successive deferments by letters of 3 November 1999 (registered on 5 November 1999 under A/38403), 14 December 1999 (registered on 17 December under A/39869) and 30 October 2000 (registered on 3 November 2000 under A/39018); this was granted by letters of 15 November 1999 (D/64719), 10 January 2000 (D/50073) and 23 November 2000 (D/55817). The Dutch Government replied by letters of 24 January 2000 (registered on 26 January 2000 under A/30682), 14 June 2000 (registered on 3 July under A/35437), 6 December 2000 (registered on 11 December 2000 under A/40422) and 2 February 2001 (registered on 2 February 2001 under A/30985). Further clarification was given at meetings on 5 January 2000 and 5 December 2000. The third party sent further information by letters of 21 March 2000 (registered on 28 March 2000 under A/32654), 4 May 2000 (registered on 18 May 2000 under A/34095), 28 June 2000 (registered on 10 July 2000 under A/35646) and 12 September 2000 (registered on 19 September 2000 under A/37630).

2. DETAILED DESCRIPTION OF THE MEASURES

2.1. The beneficiary company

- (6) SCI is an international diversified electronic components manufacturer and contracts its services to companies such as Hewlett-Packard and Apple Computers. It provides subassemblies that are used in the computer, telecommunications, medical, consumer and defence markets. In addition, it builds hundreds of finished products including PCs, video terminals, communication systems for military aircraft and Internet TV set-top boxes ⁽⁵⁾. SCI was chosen by Hewlett-Packard as a partner to produce its PCs in the Netherlands. Hewlett-Packard is one of the world's largest computer organisations ⁽⁶⁾.
- (7) The new SCI plant in Heerenveen was expected to produce PCs by the end of 1999. Pending completion of the new plant, SCI began production of PCs in temporary factory facilities in Leek (about 30 kilometres from Heerenveen).

2.2. Investment aid

- (8) By letter dated 9 December 1998, the Dutch Ministry of Economic Affairs granted investment aid equivalent to 20 % of eligible investment costs, subject to a ceiling of EUR 5,67 million (NLG 12,5 million), to SCI under the IPR scheme. At the time, the expected investment costs were put at EUR 31,1 million (NLG 68,5 million ⁽⁷⁾), comprising the construction of a factory and distribution centre for PCs in Heerenveen.

⁽³⁾ Decision 91/474/EEC of 16 August 1991 (OJ L 254, 11.9.1991, p. 14).

⁽⁴⁾ OJ C 144, 22.5.1999, p. 4.

⁽⁵⁾ www.sci.com

⁽⁶⁾ www.hp.nl.

⁽⁷⁾ The investment costs were originally estimated in US dollars. At the time that the subsidy application under the IPR scheme was being processed in September 1998, the exchange rate was USD 1 for NLG 1,96.

- (9) The Dutch authorities confirmed that the aid was granted in conformity with the IPR scheme. The Commission had approved this scheme⁽⁸⁾. The maximum aid intensity under it is equal to the regional aid ceiling of 20 % gross grant equivalent. The final decision on eligible costs, on which the exact amount of the subsidy is based, will be taken one year after completion of the project. The current expectation is that actual investment costs will be significantly lower than originally notified. The Dutch authorities explained that the new estimate amounts to EUR 18 million (NLG 40 million). On the basis of the 20 % ceiling, the subsidy under the IPR scheme would be reduced to no more than around EUR 3,6 million (NLG 8 million). As part of the normal procedures, the firm's declaration on eligible costs will be accompanied by a declaration of an independent accountant. The final declaration will be verified by the accountancy department in the Ministry of Economic Affairs⁽⁹⁾. The Dutch authorities have indicated their willingness to communicate the final decision in due course.
- (10) The Dutch authorities have informed the Commission that all cost items in the budget are eligible investment costs under the IPR scheme and that the aid ceiling of the scheme is being respected. They confirmed that cost elements such as central facilities and computers were in line with the IPR scheme and with the internal guidelines on the application of the scheme, which are based, among other things, on past case-law with respect to the scheme. As to the relatively high cost of the warehouses, the Dutch authorities informed the Commission that this was due to the specific nature of the firm. Being a contract manufacturer, the logistic chain and its computerisation are of great importance.
- (11) With respect to the cost of infrastructure, the Dutch authorities have confirmed on the basis of original documentation that there is no double counting with land development costs paid by the IBF, the entity responsible for developing the infrastructure in order to make the industrial land accessible and to provide services such as sewerage, electricity infrastructure, public landscaping, etc. IBF's updated 1999 operating budget shows that the infrastructure costs amounted to EUR 9,1 million (NLG 20,1 million). According to the Dutch authorities, the annual reports of IBF and all its requests for advances under the ERDF subsidy arrangements (all accompanied by the accountant's declarations) show that these costs include only the costs for infrastructure outside the boundaries of the individual plot acquired by SCI, that they do not relate to SCI's own site and that there is no double counting with declarations under the IPR scheme.

2.3. The '2 000 Jobs' programme

- (12) SCI is the main beneficiary of the '2 000 Jobs' programme ('2000 — Banenplan'⁽¹⁰⁾), which was drawn up by the regional employment office ('Regionaal Bureau voor de Arbeidsvoorziening Friesland', hereinafter referred to as 'RBA') and provides comprehensive arrangements for the long-term unemployed and other disadvantaged groups. Vacancies at firms that invest in Friesland (either new projects or investments in major extension schemes) are notified to the local employment offices. As part of their normal activities, these offices look out for job-seekers and ensure that they receive the necessary training and/or possess the required experience. In order to secure employment for a job-seeker, a direct wage subsidy can be granted.
- (13) The '2 000 Jobs' programme was approved and financed by the province of Friesland. It covers only that province and has a total budget for the period 1998 to 2000 of EUR 18.6 million (NLG 41 million), of which EUR 11,2 million (NLG 24,8 million) for the direct wage subsidies. The programme started in March 1998 and is an extension of the previous '700 Jobs' programme, dating from 1997. The RBA is responsible for its implementation. For years, unemployment in Friesland had been some 3 % higher than the national average. This gap narrowed to about 2 % in 1997. However, the proportion of long-term unemployed has risen above 60 %.

⁽⁸⁾ Letter of 19 October 1995 (SG(95) D/12907). Modifications were approved by letter (SG(97) D/8903) of 29 October 1997.

⁽⁹⁾ The Dutch authorities also explained why a maximum aid intensity of 40 % was mentioned in the publicly available information on the IPR, whereas the regional aid ceiling was 20 %. The 40 % maximum could apply to part of the cost in cases of cumulation with other subsidies, e.g. certain general tax investment premiums that were available in the 1980s. Such a subsidy normally related to only part of an investment project. For the overall investment project the 20 % ceiling applies. The provision regarding the 40 % maximum aid intensity was scrapped in 1999 as it was no longer relevant.

⁽¹⁰⁾ The number refers to the number of jobs to be created, and not to the year 2000.

- (14) Part of the normal administrative procedure is an advance agreement between RBA and the new or expanding firm on the planned use of the scheme. The agreement between the RBA and SCI was signed on 3 November 1998. It was agreed that SCI would recruit a maximum of 1 200 unemployed under the scheme, for which SCI would be entitled to direct wage subsidies totalling not more than EUR 7 620 000 (NLG 16 800 000). The definitive subsidy will be determined on the basis of the actual number of job-seekers recruited in line with the criteria of the jobs programme. SCI receives EUR 4 900 (NLG 10 800), EUR 6 500 (NLG 14 400) or EUR 8 200 (NLG 18 000) per job-seeker recruited. The lowest figure applies to 'normal' job-seekers, the second figure applies to unemployed persons from minority groups or handicapped people, women re-entering the labour market, young unemployed and 'phase 2' and 'phase 3' unemployed (out of work for six and nine months respectively), and the maximum figure applies to the long-term unemployed (out of work for more than one year). The subsidy is tied strictly to the person formerly registered as 'job-seeker' and is conditional on that person being employed for at least twelve months and for a minimum of eighteen hours a week in a structural job. The duration of the agreement is from May 1998 to May 2001. Advance payments were made up to 80 % of the maximum subsidy: EUR 2,3 million (NLG 5 107 180) in 1998 and EUR 3,8 million (NLG 8 332 830) in 1999.
- (15) However, the actual amount of aid will be significantly lower than the maximum agreed upon. Up to and including September 2000, only 954 individuals were taken on in line with the criteria of the jobs programme ⁽¹¹⁾. Moreover, many of these remained in their jobs for less than one year: SCI will be entitled to subsidies for only 252 of them, giving a total subsidy of EUR 1,7 million (NLG 3,7 million). The definitive subsidy will be determined only after the final declaration in May 2002 at the latest. Given these facts, the Dutch authorities gave an undertaking that combined aid under the IPR scheme and the jobs programme ⁽¹²⁾ will not exceed 20 % of the eligible cost base (see 55). Some of the advance payments have already been recovered. The remaining unlawfully granted aid will be recovered accordingly.
- (16) In its Decision of 6 February 1999 initiating proceedings under Article 88(2) of the EC Treaty, the Commission doubted whether the direct wage subsidies could be considered to be a general measure, as claimed by the Dutch authorities. Since the programme applied only to companies in Friesland, this seemed not to be the case. Moreover, it seemed that SCI would be the main beneficiary, whereas the earlier 700 jobs programme had been intended mainly for small and medium-sized enterprises.

2.4. Price of the land

- (17) SCI bought land from IBF, a publicly owned company set up to develop the business park. In order to guarantee the 'green' and 'high-quality' nature of the business park, IBF required that only 70 % of the land be used for buildings and service roads. The planned investment by SCI thus required a site covering 14 hectares. However, the land use plan, by which the province of Friesland determines how the area may be developed, sets the maximum percentage of land to be used for buildings at 15 % and the maximum percentage for service roads at 10 % of the remaining land. At the request of SCI and IBF, the municipality exercised its powers to raise these percentages to 30 % and 20 % respectively, with a combined percentage of 40 %. In order to raise this combined percentage to 70 % (40 % for building and 30 % for service roads), the province would have to change the land use plan. The relevant procedures would take considerable time and, for political and legal reasons, the outcome is uncertain. Thus, in order to comply with the current land use plan, SCI had to be the legal owner of 24 hectares.
- (18) For this reason, SCI bought 24 hectares from IBF ⁽¹³⁾ and at the same time sold back 10 hectares to IBF. The reassignment of the 10 hectares to IBF has to be carried out within four weeks of the land use plan being changed. Both the sale and the buy-back were conducted at a price of EUR 2,27 per square metre (NLG 5 per square metre), giving total amounts of EUR 544 000 (NLG 1,2 million) and EUR 227 000 (NLG 500 000) respectively, excluding value added tax. The selling price and the buy-back price were paid on the same day.

⁽¹¹⁾ This number includes 391 long-term unemployed, 105 young job-seekers and 246 job-seekers belonging to minority groups; 701 of them are men and 253 are women.

⁽¹²⁾ This includes a further aid element in the advance payments: SCI received advance payments up to 80 % of the maximum aid it would be entitled to receive. Any amount that is unduly paid will be reimbursed, but the scheme does not specify an interest payment on these amounts.

⁽¹³⁾ This is 244 190 m², according to the second land evaluation report.

- (19) The price of EUR 2,27 per square metre was determined according to a land price estimate made on 18 May 1998 by an asset valuer. In order to allay the Commission's doubts, the Dutch authorities commissioned another asset valuer to provide a second evaluation. This second evaluation, dated 7 April 1999, arrived at a similar price of EUR 2,54 (NLG 5,60) per square metre.
- (20) In its Decision of 6 February 1999, the Commission raised doubts as to the methodology used in the first evaluation report. These doubts concerned in particular the small proportion of the land that would actually be paid for, the adjustment for the cost of preparing the land and the way in which positive factors, such as the proximity of motorways, were taken into account. On the basis of the original costs incurred by IBF in developing the business park, the Commission had calculated a much higher price (EUR 24,8 per square metre or NLG 54,7). The price of EUR 2,27 per square metre seemed rather to correspond to the estimated price of the undeveloped land in 1996. Furthermore, the legal status of the buy-back contract was unclear.

2.5. Aid for temporary production facilities, security and transport (SEBB Fund)

- (21) Although the construction of the factory in Heerenveen had not yet started, SCI wanted to begin production straightaway. The public development company for the north of the Netherlands ('Noordelijke Ontwikkelingsmaatschappij', hereinafter referred to as 'NOM') helped SCI to find a suitable factory site in Leek, some 30 kilometres from Heerenveen. NOM had rented (part of) the site as from December 1997. In order to rent out the building for production purposes, it invested EUR 270 000 (NLG 600 000) in renovation work. The lessor of the remaining part of the building invested the same amount, giving total renovation costs of EUR 540 000 (NLG 1,2 million). NOM charged SCI a total rent of EUR 749 000 (NLG 1,65 million) for the period from May 1998 to February 2000 (NLG 75 000 per month), when SCI moved to its new location in Heerenveen. For the same period NOM paid total rent to the owner Brivec BV of EUR 880 000 (NLG 1 939 496). The difference is EUR 131 000 (NLG 289 496). The monthly payment for energy was EUR 11 300 (NLG 25 000).
- (22) NOM obtained financing for these expenditures from the socio-economic budget for industrial environment policy ('sociaal-Economisch budget voor bedrijfsomgevingsbeleid', hereinafter referred to as the 'SEBB fund'). The fund was set up by the province of Friesland in December 1998 with a budget of EUR 4,5 million (NLG 10 million). It was regarded as an additional instrument for strengthening the regional investment climate, paying particular attention to the creation of employment for the very low-skilled.
- (23) In its Decision of 6 February 1999, the Commission asked for further information on the temporary production facility, including any contracts between the public authorities and the company.
- (24) The SEBB fund was also used to finance transport for SCI's employees between Heerenveen and the location of the temporary production facilities in Leek. The cost of public transport would be an obstacle for the unemployed benefiting from the jobs programme. Therefore, NOM commissioned a public transport company to provide transport for SCI's new employees free of charge. The cost of this amounted to EUR 812 000 (NLG 1 789 017), excluding VAT. The SEBB fund covered these expenses for NOM. This transport service required hardly any additional public transport since existing public transport connections were used.
- (25) NOM also paid for the security services for the production facility during the period that SCI rented it. The total costs amounted to EUR 353 000 (NLG 778 552), excluding VAT.
- (26) Newspaper articles referred to aid to cover the cost of moving SCI's activities from Leek to the new factory in Heerenveen. However, the Commission has not found any evidence that any such expenses were financed by the SEBB fund or through other State resources.

2.6. Accommodation for staff

- (27) The municipality of Heerenveen paid EUR 100 000 (about NLG 220 000) for accommodation for five expatriate SCI staff members who were transferred to Heerenveen during the initial phase of the project. A higher amount of EUR 159 000 (NLG 350 000) had originally been indicated.

3. COMMENTS FROM INTERESTED PARTIES

- (28) Following publication of the decision initiating the procedure ⁽¹⁴⁾, the Commission received two comments. Both parties wished to remain anonymous.
- (29) The first comment provided further details of expenditure by the SEBB fund. It was explained that an amount of EUR 2,7 to 3,2 million (NLG 6 to 7 million) was allocated to NOM, which would ensure that SCI would incur only very low costs or no costs at all for its temporary facility in Leek. The amount in question was to be used for rent and energy payments, security around the facility and the cost of transport of personnel to and from the facility.
- (30) The second comment concerned the following.
- (31) Allegedly, according to the land use plan and the implementation details attached to it, all firms would have to pay EUR 6,8 (NLG 15) per square metre for 'energy connection'. SCI was exempted from this charge, unlike the other firms that moved to the industrial park.
- (32) SCI did not pay transfer tax ('overdrachtsbelasting') on the land transaction with IBF, as would normally be the case.
- (33) Doubts were expressed about the independent nature of the asset valuer and about certain elements of the land evaluation.
- (34) A copy of a newspaper article ⁽¹⁵⁾ was provided in which it was alleged that SCI received employment aid under the jobs programme for the recruitment of workers who already had jobs. This would be in breach of the conditions of the jobs programme.
- (35) Finally, a copy of another newspaper article ⁽¹⁶⁾ was provided that commented on the concern of the province of Friesland that the aid ceiling for the investment might be exceeded. In this connection, the same party sent in a second letter containing a report on a meeting of the Friesland Provincial Executive illustrating that concern.
- (36) The interested parties are not competitors of SCI or HP.

4. COMMENTS FROM THE NETHERLANDS

4.1. Employment aid

- (37) First of all, the Dutch authorities stressed the importance of rising employment and pointed out that the employment situation in Friesland was seriously lagging behind the overall employment trend for the Netherlands. In 1997 unemployment stood at 5,5 % in the Netherlands but at 7,5 % in Friesland. The growth of employment was distinctly lower and the level of education is below the national average. More than 60 % of the unemployed were low-skilled. The proportion of long-term unemployed had risen to 65 %. This situation called for a special approach.
- (38) The Dutch authorities considered the jobs programme to be a general measure that does not constitute aid within the meaning of Article 87(1) of the EC Treaty since the subsidy is granted automatically for each job created in Friesland and since the amount of subsidy per job created is determined according to objective criteria. SCI happens to be the main and by far the most important user of the employment scheme. However, it is not the only beneficiary. The RBA has agreements with two other firms regarding access to the jobs programme. It used to have contacts with several other parties. The available budget of EUR 18,6 million (NLG 41 million) largely exceeds the planned subsidies for SCI. Moreover, the RBA would have no discretionary powers with respect to the application of the scheme.

⁽¹⁴⁾ OJ C 144, 22.05.1999.

⁽¹⁵⁾ *Het Financieele Dagblad*, 29.5.1999.

⁽¹⁶⁾ *Leeuwarder Courant*, 1.6.1999 and 3.6.1999.

- (39) The Dutch authorities also explained that the jobs programme provided almost the same incentives as those available to firms under the Law on the mobilisation of jobseekers ('Wet Inschakeling Werkzoekenden', hereinafter referred as the 'WIW' ⁽¹⁷⁾). This national employment scheme was considered to be a general measure. Under it, a firm is eligible for a maximum of EUR 7 700 (NLG 17 000) per work-experience job provided for long-term, young or handicapped unemployed persons. SCI would have qualified for subsidies under this scheme but, since no cumulation with employment subsidies under the '2 000 Jobs' programme is allowed, it did not avail itself of the WIW. The Dutch authorities also pointed to the Law on reduction of contributions ('Wet Verminderende Afdrachten', hereinafter referred to as the 'WVA'). This is a tax measure to promote the employment of the long-term unemployed via a similar level of benefits. It provides for a maximum exemption from social security contributions of EUR 8 168 (NLG 18 000) over a four-year period for each full-time job-seeker who is taken on (EUR 2 092 or NLG 4 610 per calendar year) ⁽¹⁸⁾.

4.2. Price of the land

- (40) The Dutch authorities explained that, under Dutch law, sale and assignment are two different legal events. The buy-back is unconditional and legally binding on the parties, whereas the assignment of the land is conditional on the land use plan being changed. Provided that the plan is changed, the assignment will take place within four weeks. This will complete the full transaction. If the plan is not changed by 1 January 2008, both SCI and IBF can cancel the buy-back contract. In this case SCI will have to buy 'again' the 10 hectares in order to satisfy the conditions of the land use plan. SCI and IBF will have to agree a new price for this transaction.
- (41) The Netherlands maintained that both land valuations met the conditions of the Commission's communication on public land sales. The calculated prices should therefore be taken as the market price.
- (42) The Dutch authorities explained that IBF received subsidies from the municipality, the province, the North Netherlands Cooperation Agency ('Samenwerkingsverband Noord Nederland'), which is responsible for the financial resources of the Integral Structural Plan for the North Netherlands ('Integraal Structuurplan Noord-Nederland') and the European Regional Development Fund ('Objective 5b' programme). According to them, these subsidies were used only for general public infrastructure within the business park and could not be considered to be State aid under Article 87(1). The Dutch authorities indicated their willingness to ensure that an independent asset valuer verifies IBF's final statement so as to make sure that IBF did not incur costs for the land bought by SCI or receive any subsidies for that purpose.
- (43) As regards the exemption for energy connection, mentioned in one of the third-party comments, the Dutch authorities maintained that SCI was responsible for all the infrastructure on its own premises while IBF was responsible for the infrastructure necessary to make the site accessible.
- (44) With respect to transfer tax, the Dutch authorities declared that, on the basis of Article 15(1)(a) of the Law on taxation of legal transactions ('Wet op belastingen rechtsverkeer'), SCI was exempt because it paid VAT (17,5 %) on the transaction. SCI had to pay VAT because the land was considered to be building land following the demolition of the existing buildings (Article 11(1)(a) of the VAT Law). Under current tax legislation, it can deduct this tax payment in the normal way.

⁽¹⁷⁾ Kamerstukken II, 1996-97, 25122, No 3. Article 5 WIW allows municipalities to grant subsidies to employers to provide work-experience jobs 'werkervaringsplaatsen' for the long-term or young unemployed. Conditions for such a subsidy are similar. Thus, the employment contract for such a job must have a minimum duration of six months. The maximum subsidy applies to contracts of 12 months. If the duration is shorter, the subsidy is fixed at a correspondingly lower level.

⁽¹⁸⁾ The RBA undertook that, of all the persons it referred to SCI for recruitment or work procurement, at least 150, or 12,5 % of the total, would comply with the criteria laid down in the WVA. One of these criteria is that the long-term unemployed should be offered a contract for at least 12 weeks and for at least 15 hours a week. The WVA applies only to employment of persons under a certain wage threshold. The objective therefore was to realise a total benefit of EUR 1,2 million (NLG 2,7 million) out of WVA exemptions. At its request, SCI received 28 declarations allowing deduction of wages tax. The Dutch authorities do not know whether SCI, actually made use of these declarations. Cumulation with subsidies under the WIW or the '2 000 Jobs' programme is allowed. The Commission has confirmed that the scheme can be considered as a general measure and not as aid within the meaning of Article 87(1) of the EC Treaty, e.g. in its decision to initiate the procedure of Article 88(2) in the case of aid to Reebok (OJ C 233, 14.8.1999, p. 42).

4.3. Aid for temporary facilities; SEBB fund

- (45) The Dutch authorities commented on the existence and use of the SEBB fund.
- (46) NOM had rented out the facilities in Leek because of the increased demand for temporary and suitable production facilities. The rent charged by NOM was based on a valuation by an independent asset valuer who carried out comparisons with other recent rental and sales contracts for production facilities in the region. The valuer also mentions the recent renovation and the favourable technical properties of the building, the available parking area and the relatively large size of the plot, all factors that result in there being scant demand for such buildings. The Dutch authorities also compared this rent with the rent paid by firms that use other parts of the building. Whereas SCI's rent is about EUR 27 (NLG 60) per square metre, another firm pays EUR 19 (NLG 42) per square metre and two other firms pay EUR 25 (NLG 55) per square metre. These two firms rent a much smaller part of the building than the other firm. Finally, the Dutch authorities explained that, as SCI had now moved to Heerenveen, the facilities had been offered to three other firms who were considering the offer. They did not indicate whether one of those firms had actually started to rent (some of) the facilities.
- (47) The investment by NOM and by the lessor of the other part of the building in Leek were general maintenance costs. They were obliged to make this investment on the basis of Article 1586 of Chapter 7A of the Civil Code, which stipulates that the lessor is obliged to keep the building in a condition such that it can serve the purposes for which it is rented out. As the rent is based on an evaluation made by an independent valuer, the Dutch authorities considered that the investments could not contain State aid. A further argument in support of this view is that the building is available to all firms on similar conditions. As such, NOM is actively looking for other firms to rent the temporary facility.
- (48) The cost of transporting personnel between Leek and Heerenveen must be viewed as aid to private individuals. All obstacles facing the long-term unemployed that would benefit from the jobs programme had to be eliminated. As these individuals would normally have scant financial resources, the cost of transport could easily deter them from applying for a job in Leek. The transport initiative would also dovetail very well with the provincial policy of promoting the use of public transport. Finally, SCI has no obligation to provide any kind of public transport for its personnel, either under the relevant collective bargaining agreement for the sector or under the individual employment contracts.
- (49) The Dutch authorities took the view that the payments for security measures do not constitute State aid because otherwise NOM would be liable to claims by SCI in the event of theft. In addition to what is mentioned above, Article 1586 of Chapter 7A of the Civil Code stipulates that the lessor is obliged to ensure 'quiet enjoyment' ('rustig genot') of the building for as long as it is rented out. Without the security measures, the building would not be fit for the purposes for which it was to be rented out and nor would it comply with the 'quiet enjoyment' requirement. As the assembly of computers require stocks of considerable value, the security risks were considered to be substantial. NOM would have the same obligation towards any other firm and so the security measures are also to be considered a general measure.

4.4. Accommodation for staff

- (50) The Dutch Government held that the aid for the accommodation of five expatriate HP-SCI staff members employed in Heerenveen during the initial phase of the project should be considered *de minimis* aid ⁽¹⁹⁾.

4.5. Reaction to the comments from third parties

- (51) With respect to the comments from third parties, the Dutch authorities made the general observation that there were indications that the comments were not submitted by competing firms or by buyers of comparable or other business parks. Those parties could not therefore be considered interested parties within the meaning of Article 1(h) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽²⁰⁾. The specific comments referred to above were also made.

⁽¹⁹⁾ Commission notice on the *de minimis* rule for State aid (OJ C 68, 6.3.1996, p. 9).

⁽²⁰⁾ OJ L 83, 27.3.1999, p. 1.

5. ASSESSMENT OF THE MEASURES

5.1. The '2 000 Jobs' programme

5.1.1. State aid within the meaning of Article 87(1)

- (52) As the direct wage subsidies under the jobs programme are available only in the province of Friesland, the measure specifically favours firms in (or near) this province. The specific nature of the aid also derives from the fact that only firms that make new investments or carry out major extension schemes are eligible for the subsidies. Furthermore, the arrival of SCI coincided with the transition from the old '700 Jobs' programme to the '2 000 Jobs' programme. The latter is more generous. Although there are objective reasons for (some of) the differences, this is unlikely to be a mere coincidence. As the scheme is financed through State resources and as the products of the beneficiaries are normally traded (for SCI's products this certainly is the case), the aid is likely to affect trade between Member States and thus falls within the definition of Article 87(1) of the EC Treaty. The Commission regrets that the Dutch authorities have failed to comply with the requirement to notify the aid granted to SCI under the jobs programme on the basis of Article 88(3) of the EC Treaty.

5.1.2. Assessment

- (53) The direct wage subsidy granted to SCI under the jobs programme is linked to its investment since aid under the scheme is granted only to firms that invest in Friesland for the first time and firms that invest in substantial extension schemes. This means that the Commission has to assess the subsidy as investment aid under the guidelines on national regional aid⁽²¹⁾ (hereinafter referred to as the 'regional aid guidelines') and not under the guidelines on aid to employment⁽²²⁾. The relevant regional aid ceiling for the province of Friesland has been set at 20 % gross grant equivalent.
- (54) The wage subsidies are combined with investment aid granted under the IPR, as described in section 2.2. Paragraphs 4.18 to 4.21 of the regional aid guidelines stipulate how such cumulation of aid is to be assessed.
- (55) As the definitive subsidies still have to be determined, the amount of the investment and employment aid is as yet unknown. It will certainly exceed the amount that results from applying the regional aid ceiling (20 % gross grant equivalent) to the investment costs still to be determined, even if the cost of purchasing the land (see recitals 9 and 62) were to be included in the eligible cost base. The amount might also exceed the amount that results from application of the regional aid ceiling to the expected wage cost of the individuals taken on, calculated over a period of two years. The investment was originally expected to create 1 200 jobs. The current estimate, however, is 700 jobs. As the average monthly gross wage costs are put at EUR 1 967 (NLG 4 335), the eligible cost base would be EUR 33 million (NLG 72,8 million), resulting in an aid ceiling of EUR 6,6 million (NLG 14,6 million). As described in recital 15, the Dutch authorities have undertaken to limit the combined investment and employment aid to the ceiling of 20 % of the eligible cost base calculated in this way⁽²³⁾. Accordingly, the Commission concludes that the employment aid covered by this undertaking is compatible with the common market. Since the definitive subsidies have not yet been determined and since the jobs created have to be maintained for five years, the Commission requests detailed reports on the implementation of the investment project and the subsidies granted.

⁽²¹⁾ OJ C 74, 10.3.1998, p. 9.

⁽²²⁾ OJ C 334, 12.12.1995, p. 4. Paragraph 10 of these guidelines explains that aid to employment as covered by these guidelines is aid not linked to investment.

⁽²³⁾ Including the aid element in the advance payments; see footnote 12.

5.2. The land sale

5.2.1. The aid element in the land price

- (56) Sales of land and buildings by public authorities may contain State aid within the meaning of Article 87(1) of the EC Treaty for the buyers. The Commission communication on State aid elements in sales of land and buildings by public authorities sets out a general approach that is to be used to establish whether there is such an element of State aid ⁽²⁴⁾. The Commission will assess the present case in the light of this communication.
- (57) In accordance with point 3(a) of the communication, public authorities may have an independent evaluation of the land price carried out prior to the sale negotiations in order to establish the market value. The market price thus established is the minimum purchase price that can be agreed without granting State aid. The Commission established that a first evaluation, dated 18 May 1998, was carried out after negotiations had started. In November 1997 SCI had already published its decision to set up the facility in Heerenveen and the public authorities initially indicated a price of EUR 1,36 (NLG 3) per square metre. Moreover, the Commission found that the price of EUR 2,27 (NLG 5) per square metre, which was established by the first evaluation, cannot be taken as the market price. On the basis of the considerations below, the Commission takes the view that this evaluation significantly underestimates the value of the land that will be used as a green area and the expected increase in value due to the change of the land use plan.
- (58) Moreover, point 2(d) of the communication states that the primary cost to the public authorities of acquiring land and buildings is an indicator for the market value. In this case, the 'cost price' amounts to EUR 7,42 (NLG 16,36) per square metre ⁽²⁵⁾.
- (59) The price of EUR 2,54 (NLG 5,60) per square metre, as calculated in the second evaluation, cannot be readily accepted as a market price either. Since the plot sold to SCI is relatively large, there are no comparable land sales in the area around Heerenveen and thus no comparable land prices. Therefore the valuer made a theoretical calculation of the benefits that would accrue to a commercial developer if the land were sold in smaller plots (for which comparable prices do exist). As the land sold to SCI was not in a comparable state, several 'adjustments' are made resulting in a net sales value for 24 hectares of EUR 620 318 (NLG 1 370 000), corresponding to the price of EUR 2,54 per square metre.
- (60) The Commission, however, considers that the 'market price' is not the price such a commercial developer would be willing to pay, but rather the price for which such a commercial developer would be willing to sell the same plot to a buyer such as SCI. This means that certain deductions should not be included in the calculation since a commercial developer will pass on these costs to its clients. Moreover, the calculation should take into account the expected rise in value due to the planned change in the land use plan.
- (61) An exploratory memo from the municipality of Heerenveen contains several remarks about the necessary procedures for changing the land use plan ⁽²⁶⁾. It concludes that the change will still allow for a low density rate for buildings and a green, park-like setting. It expects that no new environmental impact report will be necessary, although the traffic noise aspect may alter this conclusion. It does not mention any other specific risks and concludes that the change could be approved in two

⁽²⁴⁾ OJ C 209, 10.7.1997, p. 3.

⁽²⁵⁾ In this case, such an indicative cost price can be calculated on the basis of the cost of buying 60 hectares of land. IBF bought 80 hectares, for which the adjusted budget for 1998 indicated a cost of NLG 13 090 000. An area of 20 hectares was necessary for infrastructure. The cost for the remaining 60 hectares amounts to 60/80 NLG 13 090 000 = NLG 9,8 million, which corresponds to a price of NLG 16,36 per square metre. The infrastructure cost, i.e. EUR 9,1 million (NLG 20,1 million) according to IBF's 1999 updated operating budget, need not to be taken into account.

⁽²⁶⁾ Gemeente Heerenveen 00-22-03/03-05-00, 'Verkennde notitie mbt de mogelijkheden en consequenties van een herziening van het bestemmingsplan voor het IBF'.

years' time. In their letter of 6 December 2000, the Dutch authorities, however, explained that in 1998 there was still a legal case before the Council of State involving IBF as such. This case was decided only in January 1999. In November 2000 the municipality of Heerenveen still had to take the formal decision on the proposed change. Even in the best-case scenario, the Dutch authorities argued, the change in the land use plan would not have legal validity before 2005/2006. It was for that reason that in 1998 no commercial developer would anticipate such a change. The Commission concludes that in 1998 there must have been considerable uncertainty regarding the future change in the land use plan.

- (62) On the basis of the second evaluation report, the Commission was able to calculate a range from EUR 6,58 to EUR 14,51 per square metre ⁽²⁷⁾ at which a theoretical developer would be willing to sell the plot to a buyer such as SCI. The cost price of EUR 7,42 per square metre is at the low end of the indicated range, implying rather high uncertainty regarding the change in the land use plan. Under these circumstances, the Commission can, as specified in point 2(d) of its communication on public land sales, use the primary cost as an indicator of the market value. The value of the 14,4 hectares of land bought by SCI is therefore EUR 1,07 million (NLG 2 359 000). Since SCI paid EUR 318 000 (NLG 700 000), the aid element in the transaction amounts to EUR 753 000 (NLG 1 659 000).
- (63) This calculated market price of EUR 7,42 per square metre seems reasonable even though it is below the price of EUR 12,25 (NLG 27) per square metre, which was the break-even price for IBF to run in 1998. As SCI is an important 'launching customer', this is not surprising. Moreover, the break-even price takes into account the whole business park, including infrastructure costs. Even if higher market prices are to be expected in the future, it is equally true that until November 2000 no other firm has built new premises on the IBF business park. This confirms the difficulty of attracting major investments to the northern part of the Netherlands, something also indicated by the small number of investments in other main industrial estates such as that at Eemshaven.
- (64) The calculated market price of EUR 7,42 per square metre can be considered to be a price including the cost of energy connection. As described in recital 29, this cost amounted to EUR 6,81 (NLG 15) per square metre, but IBF exempted SCI. The fact that IBF has borne the cost of energy connection only beyond SCI's plot and that SCI has borne the full cost of energy connection on its plot, as stated by the Dutch authorities (recital 42), is not relevant as these costs must be seen as the buyer's contribution to the general infrastructure. However, such a levy is in itself not able to raise the market price.
- (65) With respect to the evaluation of the land transaction, the Dutch authorities have shown that, contrary to what a third party suggested, the fact that SCI did not have to pay transfer tax is consistent with Dutch tax legislation. Accordingly, no aid element results from this.
- (66) The sale and buy-back of 10 hectares does not in itself contain an aid element, as both are conducted at the same price. However, if the land use plan is not changed, SCI will have to buy 'again' the 10 hectares from IBF. The Commission would remind the Dutch authorities that, in this case, the appropriate market price has to be applied.
- (67) The Commission concludes from the above that the aid element in the land transaction between IBF and SCI amounts to EUR 753 000 (NLG 1 659 000).

⁽²⁷⁾ This latter figure may be somewhat too high as no distinction is made between land to be used for building and land to be used for service roads. The 70 % limit for combined building and service roads comprises a relatively low 40 % for buildings and a high 30 % for service roads. In the case of SCI, however, the Commission considers this distinction to be of only minor importance: as SCI needs a substantial parking area, the combined maximum of 70 % can be taken as the binding requirement for its plans.

5.2.2. *Compatibility with the common market*

- (68) Since this is an ad hoc measure, the derogation in Article 87(3)(c), provided for in the regional aid guidelines, does not apply unless it can be shown that there is still an equilibrium between the resulting distortion of competition and the advantages of the aid in terms of the development of a less-favoured region. This is not the case: the assembly of computers is an internationally competitive sector and the decision to invest in Heerenveen was preceded by fierce competition from other municipalities in the Netherlands. Most (if not all) components will be supplied by firms in other regions and, to a large extent, the activities require only low-skilled labour. Moreover, the Dutch authorities did not provide any arguments to support such a view. The Commission has examined whether other derogations such as those in Article 87(2) and (3) of the EC Treaty apply to the aid element in the land sale. The derogations in Article 87(2) could serve as a basis for considering the aid to be compatible with the common market. However, the case does not concern aid that (a) has a social character, being granted to individual consumers, (b) makes good the damage caused by natural disasters or exceptional occurrences and (c) is required in order to compensate for the economic disadvantages caused by the division of Germany. Not applicable either are the derogations in Article 87(3)(a), (b) and (d) of the EC Treaty, which refer to promotion of the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, to projects of common European interest and to the promotion of culture and heritage conservation.
- (69) As far as the derogation in Article 87(3)(c) of the EC Treaty is concerned, namely aid to facilitate the development of certain economic activities or of certain economic areas, this exemption does not apply, as described above. Moreover, the aid was not linked to objectives in connection with R & D, the environment or investment by SMEs.
- (70) Neither did the Dutch authorities attempt to justify the aid on the grounds already enumerated.
- (71) Therefore, the Commission concludes that the aid element in the land sale is not compatible with the common market.

5.3. **Temporary factory facilities, security and transport (SEBB fund)**

5.3.1. *Rent for the temporary factory facilities*

- (72) The evaluation report on the rent for the temporary production facilities has a number of serious shortcomings. Firstly, it bases the 'market rent' on comparisons with rents in recently concluded contracts in the larger towns in the provinces of Groningen and Drenthe. Many of these towns, however, would not be a serious option for SCI as they would be too far from Heerenveen. The fact that NOM opted for a location that required substantial upgrading before it could be used by SCI is an indication of a shortage of suitable temporary factory facilities. It is also surprising that rents in the province of Friesland were not taken into account. Secondly, the report does not take into account the rent that NOM pays itself. For these reasons, the Commission can not rely on the outcome of the exercise being a market price.
- (73) The comparison with the rent paid by the other firms in the same building is not particularly helpful either. In three cases, the rent per square metre is lower than the rent paid by SCI, but the Dutch authorities did not calculate the rent paid by the other three firms. They, in fact, pay a higher rent. Moreover, the current owner of the part of the building concerned indicates that these rents were set

by the former owner in a manner not consistent with the market since as all these firms had to pay for the necessary adaptations of the rented facilities themselves. One of them paid EUR 360 000 (NLG 800 000) in this connection. However, all of these comparisons are distorted by the qualitative differences between the rented facilities and the differing contract specifications, e.g. the period for which the contract is concluded.

- (74) There is hardly any time lag between the agreements on the rent paid by NOM to Brivec and the rent charged to SCI. NOM started to rent the facilities in December 1997, when SCI had already opted for Heerenveen, whereas the evaluation report calculates the rent as from 26 January 1998. The Dutch authorities also stressed that there could be no State aid element in favour of Brivec, as NOM had an interest in negotiating the lowest possible price. Therefore, the Commission considers the price paid by NOM itself to be the market price, implying a State aid to of up EUR 131 000 (NLG 289 496) for SCI.
- (75) The investment by NOM of EUR 272 000 (NLG 600 000) in the temporary facility cannot be regarded as a normal market transaction. On the contrary, the Dutch authorities have confirmed that NOM invested in this temporary production facility because of the perceived shortage on the market for such facilities. However, since SCI moved to its new location, NOM has not (yet) been able to rent the facilities to another firm. The Commission doubts therefore whether there is a real shortage of temporary facilities, at least those with such a relatively large surface area. Moreover, NOM should undertake such activities only when it can expect a normal market rate of return. Either NOM should have increased the rent by a corresponding amount or SCI should have paid for the upgrading itself in the same way as the other firms in the building. This has not been the case. Being financed by the SEBB fund, the full amount must be considered as state aid within the meaning of Article 87(1) of the EC Treaty.
- (76) Both the aid element in the rent and the aid for the upgrading of the facility must be considered as individual ad hoc measures. For the same reasons as with the aid element in the land price, described in recitals 68 and 69, none of the derogations in Article 87(2) or (3) applies.
- (77) The Commission verified the actual cost of energy and concludes that this corresponds to the monthly payment of EUR 13 000 (NLG 25 000) and does not contain any element of State aid.

5.3.2. *Security of the temporary facility*

- (78) With respect to the security costs borne by NOM, the Commission again analyses what a commercial lessor acting under market economy conditions would have done. In this matter, it cannot agree with the explanation given by the Dutch authorities. Even if NOM had to pay these security costs to meet damages by SCI, a commercial lessor would pass these costs on to the firm that rented the facility or would not let the facility at all since this would represent a serious loss. Accordingly, the Commission concludes that the full amount of the security costs, i.e. EUR 353 000 (NLG 778 552), constitutes State aid within the meaning of Article 87(1) of the EC Treaty. It must be considered to be an individual ad hoc measure. For the same reasons as with the aid element in the land price, described in paragraphs 68 and 69, none of the derogations in Article 87(2) or (3) applies.

5.3.3. *Transport costs*

- (79) The Commission agrees with the Dutch authorities that the free transport benefited the individual employees directly. SCI had no obligation to provide such public transport, either under the relevant collective bargaining agreement or under the individual contracts with its employees.

- (80) Even if payment of the transport costs cannot be regarded as a normal cost for SCI, the Commission still has to investigate whether there might be any indirect benefits to the firm. For instance, it might have been more difficult to recruit the new employees without providing free transport. However, given the rather short distance involved, the temporary nature of the production site, the relatively high unemployment in Friesland and the fact that many of the beneficiaries were formerly unemployed individuals recruited via the jobs programme, any such indirect benefit seems negligible. The Commission therefore concludes that the transport costs borne by NOM do not constitute State aid within the meaning of Article 87(1) of the EC Treaty.

5.4. Accommodation for staff

- (81) The municipality of Heerenveen paid EUR 100 000 (about NLG 220 000) for the accommodation of staff. The Dutch authorities have never denied the aid character of this measure, but they claim that this subsidy is below the *de minimis* threshold. This can be accepted on condition that the Dutch authorities comply with all the conditions of the *de minimis* rule, including those on cumulation with other *de minimis* aid.

6. CONCLUSIONS

- (82) The investment aid under the IPR scheme, which will probably be fixed at around EUR 3 600 000 (NLG 8 000 000), is granted in accordance with the regional aid scheme approved by the Commission. The aid is therefore considered to be existing aid.
- (83) The investment project of SCI is situated in a region that is eligible for regional aid under Article 87(2)(c), with an aid ceiling of 20 % gross grant equivalent. The Dutch authorities have given a commitment that the aid intensity of the IPR scheme and the wage subsidies will not exceed this ceiling. Given the current estimates regarding the size of the investment and the number of jobs created, the combined aid under the IPR scheme and the jobs programme will probably be limited to about EUR 6 600 000 (NLG 14 600 000). If the IPR aid amounts to EUR 3 600 000, the wage subsidies will be limited to some EUR 3 000 000 (NLG 6 600 000). The Commission considers that the wage subsidies under the '2 000 Jobs' programme, as limited by the undertaking of the Dutch authorities, are compatible with the common market.
- (84) The following measures constitute State aid within the meaning of Article 87(1) of the EC Treaty and are not compatible with the common market: aid element in the land price EUR 753 000 (NLG 1 659 000), aid in the rent for the temporary facilities EUR 131 000 (NLG 289 496), aid in connection with NOM's investment in the temporary facility EUR 272 000 (NLG 600 000), security measures for the temporary facility EUR 353 000 (NLG 778,552). The Commission finds that the Netherlands has unlawfully implemented these aid measures in breach of Article 88(3) of the EC Treaty.
- (85) The transport costs for SCI's employees for the journey to and from the temporary facility in Leek, i.e. EUR 812 000 (NLG 1 789 017), does not constitute aid within the meaning of Article 87(1) of the EC Treaty. The aid for staff accommodation, i.e. EUR 100 000 (NLG 220 000), remains below the *de minimis* threshold.
- (86) If aid is incompatible with the common market, the Commission must, pursuant to the judgment of the Court of Justice in Case 70/72 ⁽²⁸⁾, upheld in its judgments in Cases 310/85 ⁽²⁹⁾ and C-5/89 ⁽³⁰⁾, require the Member State to recover from the recipient all aid granted unlawfully. This measure is necessary in order to restore the previous situation by removing all the financial benefits which the firm receiving the unlawful aid has improperly enjoyed since the date on which the aid was paid. Recovery of the incompatible and unlawful aid is an obligation imposed on the Commission by Council Regulation (EC) No 659/1999.
- (87) Recovery must be effected without delay and in accordance with the procedures of Dutch law provided that they allow the immediate and effective execution of the Commission decision. The aid to be recovered includes interest from the date on which it was granted until the date of its recovery. Interest is calculated on the basis of the commercial rate, with reference to the rate used for calculating the grant equivalent of regional aid,

⁽²⁸⁾ Case 70/72 *Commission v Germany* [1973] ECR 813.

⁽²⁹⁾ Case 310/85 *Deufil v Commission* [1987] ECR 901.

⁽³⁰⁾ Case C-5/89 *Commission v Germany* [1990] ECR I-3437.

HAS ADOPTED THIS DECISION:

Article 1

Tie transport service for SCI's employees to and from the temporary facility in Leek does not constitute State aid within the meaning of Article 87(1) of the EC Treaty.

Article 2

The aid under the '2 000 Jobs' programme, which the Netherlands has implemented in favour of SCI and which is limited by the undertaking of the Dutch authorities, is compatible with the common market in so far as the combined amount of aid under the IPR scheme and the jobs programme does not exceed the regional aid ceiling of 20 % gross grant equivalent. The Netherlands shall ensure that, with the final declaration of eligible costs, the ceiling of 20 % will not be exceeded.

Article 3

The aid element in the land price, the aid in respect of the rent charged for the temporary facility and the investment by NOM in the temporary facility, and the aid in connection with the security measures for the temporary facility are incompatible with the common market.

Article 4

1. The Netherlands shall take all necessary measures to recover from the beneficiary the aid referred to in Article 3 and unlawfully made available to the beneficiary.
2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of the decision. The aid to be recovered shall include interest from the date on which it was at the disposal of the beneficiary until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.

Article 5

The Netherlands shall strictly monitor the progress of the investment project and shall provide the Commission with reports concerning the definitive subsidy under the IPR scheme, the actual number of employees eligible for the subsidy and the associated wage costs, and the definitive subsidy granted under the '2 000 Jobs' programme and concerning the maintenance of the jobs created for a period of five years as from the completion of the investment project. With respect to the aid for the accommodation of staff, the Dutch authorities shall comply with the conditions of the *de minimis* rule, notably those on cumulation with other *de minimis* aid.

Article 6

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

Article 7

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 February 2001.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION
of 6 July 2001
amending for the fifth time Decision 2001/356/EC concerning certain protection measures with
regard to foot-and-mouth disease in the United Kingdom

(notified under document number C(2001) 1791)

(Text with EEA relevance)

(2001/518/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 2001/356/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom ⁽⁴⁾, as last amended by Decision 2001/437/EC ⁽⁵⁾.
- (2) Council Directive 85/511/EEC, as last amended by the Act of Accession of Austria, Finland and Sweden, introduces Community measures for the control of foot-and-mouth disease ⁽⁶⁾.
- (3) In certain cases consolidated loads of large numbers of various products of animal origin, each of them eligible for dispatch from the United Kingdom, are consigned from distribution centres of supermarket retailers in Great Britain. Currently this requires that each individual product is accompanied by a certificate or commercial document as provided for in Decision 2001/356/EC.
- (4) To facilitate the operation of such distribution centres handling products other than fresh meat, minced meat and meat preparations it appears appropriate that

compliance with the requirements of Decision 2001/356/EC be stated in the commercial document accompanying such consolidated loads endorsed by the attachment of a copy of an official veterinary certificate confirming that the premises of dispatch has in place a system to ensure that goods can only be dispatched if they are traceable to documentary evidence of compliance with Decision 2001/356/EC and that this system has been audited and found satisfactory.

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

HAS ADOPTED THIS DECISION:

Article 1

A third paragraph is added to Article 9 of Decision 2001/356/EC as follows:

'For products for retail sale to the final consumer, the competent authorities of the United Kingdom may authorise consolidated loads of products other than fresh meat, minced meat and meat preparations, each of which is eligible for dispatch in accordance with this Decision, to be accompanied by a commercial document endorsed by the attachment of a copy of an official veterinary certificate confirming that the premises of dispatch has in place a system to ensure that goods can only be dispatched if they are traceable to documentary evidence of compliance with this Decision and that this system has been audited and found satisfactory. The verifying certification of the traceability system shall bear a reference to this Decision, shall be valid for 30 days, shall state the expiry date and shall be renewable only after the establishment has been audited with satisfactory results. The competent authorities of the United Kingdom shall communicate to the other Member States and the Commission the list of establishments they have approved in application of these provisions.'

⁽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 125, 5.5.2001, p. 46.

⁽⁵⁾ OJ L 154, 9.6.2001, p. 66.

⁽⁶⁾ OJ L 315, 26.11.1985, p. 11.

Article 2

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 3

This Decision is addressed to the Member States.

Done at Brussels, 6 July 2001.

For the Commission

David BYRNE

Member of the Commission
