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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1398/2001
of 10 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 11 July 2001.

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

Done at Brussels, 10 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 10 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
	060	71,3
	999	74,4
0707 00 05	052	81,2
	999	81,2
0709 90 70	052	72,6
	388	67,1
	999	69,8
0805 30 10	388	77,8
	528	65,9
	999	71,8
0808 10 20, 0808 10 50, 0808 10 90	388	94,1
	400	116,0
	404	139,9
	508	100,5
	512	91,9
	524	60,9
	528	70,7
	720	138,9
	800	215,7
	804	103,3
	999	113,2
0808 20 50	388	86,3
	512	73,9
	528	76,0
	800	75,8
	804	131,1
	999	88,6
0809 10 00	052	177,0
	064	145,6
	999	161,3
0809 20 95	052	327,6
	064	201,8
	400	284,6
	999	271,3
0809 30 10, 0809 30 90	052	206,6
	999	206,6
0809 40 05	064	124,3
	624	286,1
	999	205,2

⁽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 1399/2001

of 10 July 2001

on the organisation of an invitation to tender for the resale on the internal market of approximately 6 215 tonnes of rice held by the Greek intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 fourth indent of Article 8(b) thereof,

Whereas:

- (1) Around 6 215 tonnes of paddy rice held by the Greek intervention agency need to be put up for resale on the Community market. The sale is to be organised in accordance with the rules laid down in Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies ⁽³⁾.
- (2) As the product has deteriorated in quality as a result of the long period it has been in storage, the minimum selling price of each lot put up for sale should be determined having regard to its specific characteristics, in accordance with Article 2(3)(d) of Commission Regulation (EEC) No 3597/90 of 12 December 1990 on the accounting rules for intervention measures involving the buying-in, storage and sale of agricultural products by intervention agencies ⁽⁴⁾, as last amended by Regulation (EC) No 1392/97 ⁽⁵⁾.
- (3) Given the quality and the characteristics of the rice concerned, tenderers should have analyses carried out of the lots put up for sale.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Regulation (EEC) No 75/91, the Greek intervention agency shall organise an invitation to tender for

the resale on the internal market of approximately 6 215 tonnes of rice held by it.

Article 2

Notwithstanding Article 3(2) of Regulation (EEC) No 75/91, tenders submitted must cover a whole lot.

Article 3

The notice of invitation to tender shall require the tenderers to have a prior analysis carried out of the quality characteristics of the rice put up for sale. Before submitting their bids, tenderers must have a sample taken at the store analysed. When taking over the goods, the successful tenderer may not complain of the quality or the characteristics of the rice.

Article 4

1. The first closing date for the submission of tenders shall be 23 July 2001; the closing date for the last submission of tenders shall be 31 August 2001.

2. Tenders must be submitted to the Greek intervention agency at the following address:

DIDAGEP

Directorate-General for the Administration of Purchases of Agricultural Produce
Acharnon Street 241
GR-10466 Athens

Tel.: (30-1) 865 99 41 and 867 31 49

Fax: (30-1) 862 93 73

3. The goods shall be stored at the following addresses:

Alexandros Abekse, Kougioumgidou 5, GR-58100, Yannitsa M. Kourkouta & Sia O.E., GR-57500 Epanomi, Thessaloniki.

Article 5

The minimum prices shall be as follows:

— Lot No 1

Price: EUR 240,00/t approximately 1 068 tonnes

Store: Kougioumgidou 5, GR-58100 Yannitsa — bin K1

— Lot No 2

Price: EUR 160,00/t approximately 1 024 tonnes

Store: Kougioumgidou 5, GR-58100 Yannitsa — bin K3

⁽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.

⁽⁴⁾ OJ L 350, 14.12.1990, p. 43.

⁽⁵⁾ OJ L 190, 19.7.1997, p. 22.

- Lot No 3
Price: EUR 130,00/t approximately 1 024 tonnes
Store: Kougioumgidou 5, GR-58100 Yannitsa — bin K2
- Lot No 4
Price: EUR 230,00/t approximately 1 064 tonnes
Store: Kougioumgidou 5, GR-58100 Yannitsa — bin K5
- Lot No 5
Price: EUR 270,00/t approximately 1 206 tonnes
Store: GR-57500 Epanomi, Thessaloniki — bin K1
- Lot No 6
Price: EUR 250,00/t approximately 829 tonnes

Store: GR-57500 Epanomi, Thessaloniki — bin K3.

Article 6

By no later than Tuesday of the week following the closing date for the submission of tenders the Greek intervention agency shall notify the Commission of the quantities and the prices of the various lots sold.

Article 7

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

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

Done at Brussels, 10 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1400/2001
of 10 July 2001
concerning the classification of certain goods in the Combined Nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾, as last amended by Commission Regulation (EC) No 1230/2001 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the Combined Nomenclature. Those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to the said general rules, the goods described in column 1 of the table annexed to this Regulation must be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.
- (4) It is appropriate that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which does not conform to the provisions of

this Regulation, can continue to be invoked, under the provisions in Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽⁴⁾, for a period of three months by the holder.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the annexed table are classified within the Combined Nomenclature under the CN codes indicated in column 2 of the said table.

Article 2

Binding tariff information issued by the customs authorities of Member States which does not conform to the provisions of this Regulation can continue to be invoked under the provisions of Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months.

Article 3

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 10 July 2001.

For the Commission

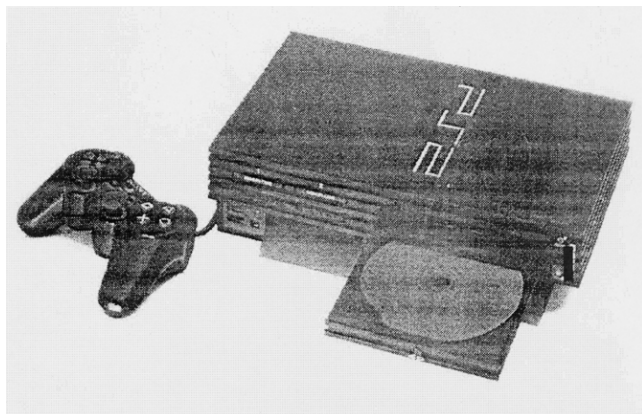
Frederik BOLKESTEIN

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.
⁽²⁾ OJ L 168, 23.6.2001, p. 6.

⁽³⁾ OJ L 302, 19.10.1992, p. 1.
⁽⁴⁾ OJ L 311, 12.12.2000, p. 17.

(*) The photographs are purely for information.



COMMISSION REGULATION (EC) No 1401/2001
of 10 July 2001
deferring the final date for sowing certain arable crops in certain areas of the Community in the
2001/02 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 1038/2001 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) Article 8(2) of Regulation (EC) No 1251/1999 provides that, in order to qualify for area payments for cereals and linseed under the support system for certain arable crops, producers must have sown the seed at the latest by 31 May preceding the relevant harvest.
- (2) As a result of the particular weather conditions applying this year, in Austria, France and certain areas of Sweden, Finland and Portugal it will not be possible to meet the final dates for sowing set. Consequently, the final date for sowing arable crops for the 2001/02 marketing year should, where necessary, be deferred for certain specific areas. To that end, a derogation from Regulation (EC)

No 1251/1999 should be provided for in accordance with the eleventh indent of Article 9 of that Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

The final dates for sowing for the 2001/02 marketing year shall be as set out in the Annex as regards the crops, Member States and areas shown.

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 to area payments in respect of the 2001/02 marketing year.

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

Done at Brussels, 10 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 145, 31.5.2001, p. 16.

ANNEX

Final dates for sowing for the 2001/02 marketing year

Crops	Member State	Area	Final date
Maize, soya beans, linseed	Austria	The entire country	15 June 2001
Maize and sorghum	Portugal	Entre-Douro e Minho, Beira Litoral	21 June 2001
Hemp	France	The entire country	21 June 2001
All crops	Sweden	Jämtland, Västerbotten, Norrbotten, Västernorrland	25 June 2001
All crops	Finland	C 2, C 2 P	25 June 2001
All crops	Finland	C 3, C 4	30 June 2001

COMMISSION REGULATION (EC) No 1402/2001**of 10 July 2001****on the issuing of reallocation licences for unused quantities covered by licences issued for bananas imports under the tariff quotas for the first and second quarters of 2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 216/2001 ⁽²⁾, and in particular Article 20 thereof,

Whereas:

- (1) Commission Regulation (EC) No 896/2001 ⁽³⁾, lays down the new detailed rules, applicable from 1 July 2001, for applying Regulation (EEC) No 404/93 as regards the management of the tariff import quotas provided for in Article 18(1) of the latter Regulation.
- (2) With a view to a smooth switchover from the detailed rules laid down in Commission Regulation (EC) No 2362/98 ⁽⁴⁾, as last amended by Regulation (EC) No 1632/2000 ⁽⁵⁾, for the period 1 January 1999 to 30 June 2001, to the new detailed rules laid down in Regulation (EC) No 896/2001 for managing the tariff quotas, provision should be made for reallocation licences to be issued, in accordance with conditions laid down herein, for unused quantities covered by licences issued during the first two quarters of 2001. To the same end and for ease of management, the term of validity of such reallocation licences should be longer than the normal term for import licences.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with the conditions laid down in this Regulation, reallocation licences shall be issued for quantities covered by licences issued for bananas imports under the tariff quotas provided for in Article 18 of Regulation (EEC) No 404/93 and not used during the first and second quarters of 2001.

⁽¹⁾ OJ L 47, 25.2.1993, p. 1.

⁽²⁾ OJ L 31, 2.2.2001, p. 2.

⁽³⁾ OJ L 126, 8.5.2001, p. 6.

⁽⁴⁾ OJ L 293, 31.10.1998, p. 32.

⁽⁵⁾ OJ L 187, 26.7.2000, p. 37.

1. Reallocation licences shall be issued on application, submitted from 20 to 27 July 2001, by the holder or, as the case may be, the transferee of any unused or partly used licence(s).

2. Applications for reallocation shall be accompanied by the original or a certified copy of the licences not used, or used in part only, during the first two quarters of 2001, together with proof of lodging of a security of EUR 18 per tonne.

A percentage corresponding to the unused quantities of the securities covering unused or partly used licences shall be forfeited.

Proof of lodging of securities as referred to in the first subparagraph shall not be required in the case of licence applications submitted by operators registered as 'newcomers' in accordance with Article 8 of Regulation (EC) No 2362/98.

Article 3

Box 20 of applications for reallocation licences and of reallocation licences shall bear the words 'reallocation licence — Regulation (EC) No 1402/2001'.

Article 4

1. Reallocation licences shall be issued immediately.
2. The term of validity of reallocation licences shall run from the date of their actual issue to 7 January 2002.

Article 5

Quantities released for free circulation under reallocation licences issued pursuant to this Regulation shall not be set off against the available quantities fixed in Article 28(1) of Regulation (EC) No 896/2001.

Article 6

The competent authorities shall inform the Commission by 31 August 2001 at the latest of the quantities covered by reallocation licence applications.

Article 7

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

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

Done at Brussels, 10 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1403/2001**of 10 July 2001****determining to what extent applications for import rights for calves not exceeding 80 kilograms lodged pursuant to Regulation (EC) No 1128/1999 can be met**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1128/1999 of 28 May 1999 laying down detailed rules of application for a tariff quota for calves weighing not more than 80 kilograms originating in certain third countries ⁽¹⁾, as amended by Regulation (EC) No 1096/2001 ⁽²⁾, and in particular Article 5(1) thereof,

Whereas:

- (1) Article 2(4) of Regulation (EC) No 1128/1999 provides for the quantities reserved for traditional importers to be allocated in proportion to their imports during the period 1 July 1997 to 30 June 2000.
- (2) Allocation of the quantities available to operators covered by Article 2(3)(b) of that Regulation is to be made in proportion to the quantities applied for. Since

the quantities applied for exceed the quantities available, a fixed percentage reduction should be set,

HAS ADOPTED THIS REGULATION:

Article 1

Every application for an import right for live animals of the bovine species not exceeding 80 kilograms shall be granted to the following extent:

- (a) 24,0591 % of the quantities imported within the meaning of Article 2(3)(a) of Regulation (EC) No 1128/1999;
- (b) 0,5549 % of the quantities applied for within the meaning of Article 2(3)(b) of Regulation (EC) No 1128/1999.

Article 2

This Regulation shall enter into force on 11 July 2001.

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

Done at Brussels, 10 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 135, 29.5.1999, p. 50.

⁽²⁾ OJ L 150, 6.6.2001, p. 33.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 December 2000

on the aid scheme implemented by the Kingdom of the Netherlands for six manure-processing companies

(notified under document number C(2000) 4070)

(Only the Dutch version is authentic)

(Text with EEA relevance)

(2001/521/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 regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty,

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

Whereas:

I. PROCEDURE

- (1) Since 1994 various complaints have drawn the Commission's attention to cases of aid granted to manure-processing projects in the Netherlands under the 'Bijdrageregeling Proefprojecten Mestverwerking' (BPM) scheme. With the Commission's approval, the scheme had operated until 1994 ⁽²⁾. The complainants allege that aid was granted after that date.
- (2) By letter dated 15 July 1999 (SG (99) D/5241), the Commission enjoined the Dutch authorities to provide, within 20 working days of receiving the injunction, all relevant information enabling it to determine whether the aid measures concerned were covered by the BPM scheme, as approved by the Commission, and to disclose if any other aid had been granted to such projects.
- (3) By letters dated 15 October (A/37878) and 26 October 1999 (A/38181), the Dutch authorities forwarded a number of documents. However, they did not answer the questions raised in the Commission's injunction.

⁽¹⁾ OJ C 272, 23.9.2000, p. 22.

⁽²⁾ Scheme approved on 6 July 1989.

- (4) By letter dated 17 May 2000 (SG (2000) D/103702), the Commission informed the Dutch authorities that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of six cases in which aid had been paid after the scheme had expired.
- (5) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽³⁾. The Commission invited the interested parties to submit their comments on the aid measure.
- (6) The Commission received no comments from interested parties.

II. DETAILED DESCRIPTION OF THE AID

- (7) The Commission approved the BPM scheme (N 137/89) on 6 July 1989 for one year (1989 to 1990). By Decision of 14 December 1990, the scheme was extended until the end of 1994 (C 17/90, ex N 88/90). The Dutch authorities were thus authorised to grant investment aid of up to 35 % of eligible costs for about 20 large-scale manure-processing plants.
- (8) The scheme was designed to stimulate the creation of useful outlets for the manure surplus in the Netherlands. The Dutch authorities focused mainly on aid to prevent overproduction of manure and on environmentally friendly ways of disposal of surplus manure.
- (9) As regards manure processing, investment aid was allocated to pilot installations (where new manure-processing methods are tested), test plants (comprising all the processing phases, from manure to a saleable product), pre-purification installations (where relatively pure effluents are extracted), and large-scale storage and processing facilities for poultry dung (which is often piled up in the open, emitting ammonia).
- (10) After the BPM scheme had expired, the Dutch authorities granted State aid amounting to EUR 2 501 089 to the manure-processing companies Ferm-o-Feed BV, Fleuren Compost BV, Vloet Oploo BV, Smith Markelo, Arev Venhorst and Memon KPI.
- (11) Lastly, one company, Ferm-o-Feed, benefited twice from State aid; there is no evidence that the aid was for two different pilot projects.

Amounts granted after expiry of BPM scheme

Company	Aid granted on	Eligible costs (in EUR)	Total amount granted (in EUR)	Aid intensity
Ferm-o-Feed BV	27.7.1995	360 755	126 264	35 %
Fleuren Compost BV	21.12.1995	10 739 250	487 326	4,5 %
Vloet Oploo	21.12.1995	528 654	158 596	30 %
Smith Markelo	21.12.1995	1 502 013	426 553	28 %
Arev Venhorst	21.12.1995	648 906	213 277	33 %
Memon KPI	21.12.1995	4 428 895	1 089 073	25 %
Total		18 208 473	2 501 089	

⁽³⁾ See footnote 1.

- (12) The Commission initiated the procedure laid down in Article 88(2) of the EC Treaty because it had serious doubts as to whether the six cases were covered by the BPM scheme and whether they were caught by Article 87(2) and (3) given that neither of the exceptions set out there appeared to apply. With regard to the first part of the derogation in Article 87(3)(c), the Commission took the view that the Community guidelines on State aid for environmental protection ⁽⁴⁾, hereinafter referred to as the 'environmental guidelines', did not apply since no evidence had been produced that the investment aid had made it possible to achieve significantly higher levels of environmental protection and since the planned aid intensities were in excess of the thresholds indicated in the guidelines. The Community guidelines on State aid for small and medium-sized enterprises ⁽⁵⁾ (referred to hereinafter as the 'SME guidelines') did not appear to apply either, given that aid for large enterprises in excess of the aid intensity thresholds indicated in the guidelines had not been ruled out.

III. COMMENTS FROM THE NETHERLANDS

- (13) According to the Dutch authorities, the 'steunverlening' (grant) or the 'beslissing omtrent toekenning van een bijdrage' (decision to grant a contribution) is the legally binding act whereby State aid is granted. By this decision the government undertakes to pay aid to the applicant for the specified maximum amount, on condition that the recipient complies with all the conditions of the scheme. The decision had to be taken before 31 December 1994 and the recipients were informed of it by a 'toekenningsbrief' (grant letter).
- (14) At a later stage in the proceedings the Dutch authorities argued that the State aid granted after the BPM scheme had expired also formed part of the scheme in so far as the ('bevestigingsbrief' (i.e. confirmation letter) to confirm the receipt of the application for a grant had been issued before the scheme expired.
- (15) Moreover, the Dutch Government held that only large-scale manure-processing projects required individual notification and that it had not notified the projects in question for that reason.
- (16) Finally, regarding Ferm-o-Feed, the Dutch Government pointed out that the scheme did not prevent the authorities from providing aid to two different projects proposed by the same company.

IV. ASSESSMENT OF THE AID

A. Applicability of the BPM scheme

- (17) In order to determine whether the aid for the six companies in question had to be classified as existing aid, the Commission first examined to what extent the BPM scheme applied to the aforementioned projects.
- (18) The main legal question in these six cases is the difference in interpretation as to what constitutes the legally binding act granting the aid. Although the Dutch Government argues that the legally binding act by which the competent authorities undertake to grant aid is the grant letter, it takes the view that all the grants for which a grant letter was issued after 31 December 1994 are covered by the scheme because the letter of confirmation was sent before that deadline.
- (19) Having scrutinised the documentation on the administrative procedure in the relevant cases, the Commission takes the view that the legally binding act is the grant letter. The letter of confirmation was merely an acknowledgement of receipt of the aid application without any prior examination of whether the conditions of the aid scheme had been met. Furthermore, the granting of aid was conditional on an evaluation by an advisory committee comprising representatives of various ministries. Only after this committee had made an assessment at national level did the Ministry of Agriculture, Nature Management and Fisheries, which is competent in this matter, issue a grant letter indicating the amount of the eligible costs, the amount of the aid and the conditions under which it was granted. The analysis of the procedural steps showed that the aid was not granted automatically to all applicants, but on the basis of a discretionary decision by the competent authorities.

⁽⁴⁾ OJ C 72, 10.3.1994, p. 3.

⁽⁵⁾ OJ C 213, 23.7.1996.

- (20) The Commission therefore considers that the date on which the aid was granted is the date on which the grant letter was sent, as confirmed by the Dutch authorities in the first instance. Accordingly, the aid granted to the six manure-processing companies was not covered by the scheme and should be regarded as unlawful aid which was implemented in breach of Article 88(3).

B. Aid within the meaning of Article 87 of the EC Treaty

- (21) The investment aid granted by the Dutch Government was designed to allow and promote investment in manure facilities and hence favoured the companies in question. Processed animal manure is sold primarily as dry organic fertiliser in the form of manure pellets. The manure-processing plants are in competition with other manufacturers of organic and chemical fertilisers. Because this financial incentive strengthens those plants' financial position, it threatens to distort competition within the European Union in that farmyard manure used as fertiliser competes with other organic fertilisers.
- (22) According to a study on the sales potential in other countries for Dutch processed animal manure ⁽⁶⁾ carried out for the Dutch ministry in question in 1990, animal and vegetable fertilisers compete not only on a local basis but also on the French, Spanish, Portuguese, Italian and Greek markets. From 1988 to 1990 the Dutch share of total intra-Community trade in those products amounted to between 44 % and 60 %. Dutch exports of processed animal manure to other Member States can be expected to increase, primarily as a result of the aforementioned projects.
- (23) In spite of the information injunction, the Dutch authorities failed to provide the requisite details on the market situation of the individual companies. Such details would have made it possible to assess each company's impact on the manure-processing and fertiliser markets. For that reason, the Commission based its assessment on data for the market as a whole, as indicated above.
- (24) Consequently, the aid is likely to affect trade between Member States in the sector concerned and thus constitutes State aid within the meaning of Article 87(1).

C. Compatibility of the aid with Article 87 of the EC Treaty

- (25) The aid has not been covered by an approved and currently applicable aid scheme since the BPM scheme expired in 1994. Therefore, in contrast to the arguments put forward by the Dutch Government, the aid granted to the manure-processing companies in question required individual notification, regardless of their size. The Dutch authorities failed to meet their obligations pursuant to Article 88(3). The Commission considered the measure to be new aid pursuant to Article 88 (3) and applied the principles set out in Article 87.
- (26) The proposed aid could be regarded as compatible with the common market only if either Article 87(2) or Article 87(3) applied.
- (27) For the following reasons, the derogations in Article 87(2) and (3) (a), (b), (c) ⁽⁷⁾ and (d) do not apply in the present case:
- (28) The aid does not have a social character, was not granted to individual consumers, was not used to make good the damage caused by natural disasters and was not granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany. The derogations in Articles 87(3)(a) do not apply to the present case either, because the aid was not designed to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. As far as the derogation in Article 87(3)(b) is concerned, the Commission takes the view that the aid was clearly not intended to promote an important project of common European interest or to remedy serious disturbance in the economy of a Member State. The regional aspect of the derogation in Article 87(3)(c) does not apply since the companies are not located in assisted areas. Nor is the aid designed to promote cultural and heritage conservation within the meaning of Article 87(3)(d).

⁽⁶⁾ Booz-Allen & Hamilton: 'Afzetmogelijkheden voor verwerkte dierlijke mest', The Hague, 1990.

⁽⁷⁾ Derogation for regional aid.

- (29) The Dutch authorities did not attempt to justify the aid on the grounds enumerated above.

D. Compatibility of the aid with Article 87(3)(c) of the EC Treaty

- (30) As regards the first part of Article 87(3)(c), namely aid to facilitate the development of certain economic activities, the Commission based its assessment on the fact that the 1989/90 BPM scheme was designed primarily to help medium-sized companies set up pilot manure-processing facilities so as to provide for the environmentally friendly disposal of manure surpluses in accordance with Dutch legislation, which has restricted manure production since 1987, and with Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽⁸⁾ (the 'Nitrates Directive').
- (31) The Commission approved the extension of the BPM scheme in 1990 on an exceptional basis to allow the Dutch Government to provide incentives for the introduction of innovative technology. The successful outcome of these projects depended on the willingness of farmers to pay for the manure produced on their farms to be processed. When it gave its approval, the Commission pointed out that, if these projects turned out not to be viable, it would a priori take a negative attitude towards further aid for manure processing in the Netherlands ⁽⁹⁾. It was thus made clear to the Dutch authorities that the Commission had fundamentally reviewed its approach to the BPM scheme. The Dutch authorities could not, therefore, expect new projects based on the same conditions as the BPM scheme to be regarded as being compatible with Article 87.
- (32) The Commission first assessed the compatibility of the aid in the light of the SME guidelines.
- (33) Pursuant to point 4.2.1 of these guidelines, the Commission may approve aid for SMEs outside areas qualifying for domestic regional aid on condition that the aid intensity does not exceed 15 % in the case of small enterprises or 7,5 % in the case of medium-sized enterprises. This means that the SME guidelines do not apply in five of these cases. Even if the companies meet the criteria set out in point 3.2 of the guidelines, the aid granted far exceeds the authorised ceilings.
- (34) Only in the case of Fleuren Compost BV was the aid intensity below the ceiling laid down in the SME guidelines. However, in spite of the doubts expressed by the Commission regarding the size of the companies concerned in the information injunction which accompanied its decision to initiate proceedings, the Dutch authorities failed to show that the company complied with the criteria set out in point 3.2 of those guidelines.
- (35) The Dutch authorities did not therefore provide evidence that the six companies complied with the SME criteria laid down in the guidelines or justify the aid on that basis. Nor did they provide evidence that the general principles enshrined in point 4.1 of the guidelines had been respected. The Commission therefore takes the view that the SME guidelines do not apply.
- (36) The Commission also assessed the projects in the light of the environmental guidelines.
- (37) Firstly, the Commission examined whether the measures in question complied with the conditions governing the granting of investment aid set out in point 3.2 of the guidelines.
- (38) The Commission takes the view that this point is not applicable because the environmental obligations resulting from the Nitrates Directive apply to farmers with a view to limiting manure production, whereas the aid recipients are not the parties concerned by these obligations.

⁽⁸⁾ OJ L 375, 31.12.1991.

⁽⁹⁾ Aid C 17/90 (OJ C 82, 27.3.1991, p. 3).

- (39) However, even if the environmental guidelines were to apply, aid may, pursuant to point 3.2.3(B) concerning aid to encourage firms to improve on mandatory environmental standards, be authorised only for investment that allows significantly higher levels of environmental protection to be attained than those required by mandatory standards. The Dutch authorities did not produce any evidence that this was the case for the measures in question. The Commission doubts whether the manure-processing plants can help to attain higher targets than those set out in Directive 91/676/EEC, given that at least four of the pilot plants which received aid when the scheme was still operating have since been closed. The Commission does not therefore believe that the aid paid out after the scheme expired can be justified on the same grounds as those that led to its exceptional extension.
- (40) The Commission also scrutinised the measures as aid to help firms adapt to new mandatory standards. On the basis of the information available, it takes the view that the requirements set out in point 3.2.3(A) of the environmental guidelines have not been met. The guidelines indicate that aid may be authorised up to a level of 15 % gross of the eligible costs, for a limited period and only in respect of a plant which has been in operation for at least two years when the new standards enter into force. In violation of these conditions, aid was granted to new manure-processing plants with an aid intensity of up to 35 %.
- (41) With regard to the two grants of aid to Ferm-o-Feed BV, the Commission considers that the granting of aid the second time was at variance with the principle laid down in the BPM scheme that aid should be granted only to pilot projects aimed at promoting environmentally friendly processing of manure. It bases its assessment on the fact that, according to an article published in *Agrarisch Dagblad* on 26 November 1997, Ferm-o-Feed BV's environmental permit was withdrawn by the competent Dutch authorities on the ground that the company did not comply with Dutch environmental legislation. Aid was nevertheless paid out without checking whether the conditions set out in the grant letter were still met.
- (42) In addition, according to the relevant files, the second grant of aid was designed to enable the pilot plants built with the aid granted in 1988 to renew and expand their production capacity. The Dutch authorities were unable to produce any evidence that the second project represented an innovation in comparison with the first one.
- (43) Accordingly, the Commission takes the view that the second grant of aid to Ferm-o-Feed BV is not compatible with the environmental guidelines for the same reasons as already elaborated with regard to the other cases in which aid was paid out after the scheme had expired.
- (44) Secondly, the Commission examined whether point 3.4 of the environmental guidelines applied. One of the conditions for approving operating aid for environmental protection is that it should compensate for extra production costs by comparison with traditional costs. In addition, aid should be temporary and in principle degressive. When the Commission decided in December 1990 not to raise any objection to the Dutch authorities' plan to grant investment aid of 35 % for the construction of large-scale manure-processing plants up to the end of 1994, this decision was based on the environmental objectives and the high commercial risks associated with the project.
- (45) As regards the commercial risks, the Commission points out that the investments in large-scale manure-processing plants were regarded as pilot projects designed to provide a special incentive for those plants to be built within the time-frame laid down and to demonstrate their viability.
- (46) The Commission is aware of the fact that the Dutch authorities' most important objective in granting aid to the manure-processing plants in question related to environmentally friendly processing of manure with a view to avoiding external costs — mainly in the form of water pollution, gas emissions and residual heavy metals. The mere fact that not enough projects could be approved during the life of the BPM scheme highlights the difficulties associated with setting up viable manure-processing plants. It should be noted here that manure processing is not in itself a profitable activity and that the viability of such plants depends on the willingness of farmers to supply the manure and to pay for it to be processed. These uncertainties in connection with the economic viability of large-scale manure-processing plants have been confirmed by a complaint⁽¹⁰⁾ and written questions by a member of the European Parliament⁽¹¹⁾. The suggestion is that manure processing is too costly and is permanently dependent on subsidies.

⁽¹⁰⁾ 'Stichting Natuur en Milieu' (Foundation for Nature and the Environment) lodged a complaint in a letter dated 30 November 1994.

⁽¹¹⁾ Written questions E-2746/94 and E-2782/94 by Nel van Dijk (OJ C 103, 24.3.1994).

- (47) A number of plants met with financial difficulties which could be overcome only with the help of additional operating aid. In line with its well-established negative view on operating aid, the Commission in 1992 took a final decision prohibiting such aid for manure processing ⁽¹²⁾.
- (48) Four manure-processing plants subsidised under the BPM scheme had to be closed because they were not viable. The Commission therefore considers that projects to which aid was granted after the scheme expired for the purpose of introducing the same technology as under the scheme are dependent on ongoing aid in order to sustain production, which means that the aid cannot be temporary and degressive. Accordingly, neither of the conditions laid down in point 3.4 of the environmental guidelines is met.
- (49) Given that the measures in question did not comply with the SME guidelines or with the environmental guidelines, they cannot be regarded as contributing to the development of economic activities without affecting trade between Member States to an extent contrary to the common interest. In so far as the derogation in Article 87(3)(c) is not relevant, the principle of prohibition of Article 87(1) is fully applicable. The Dutch authorities have not provided any evidence that the aid is compatible with the EC Treaty.
- (50) If aid is deemed incompatible with the common market, the Commission is obliged, under the judgments handed down by the Court of Justice in Case 70/72 ⁽¹³⁾, upheld in Cases 310/85 ⁽¹⁴⁾ and C-5/89 ⁽¹⁵⁾, to require the Member State to recover from the recipient all aid granted unlawfully. Repayment is necessary in order to revert to the previous situation by withdrawing 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 Regulation (EC) No 659/1999.
- (51) The aid must be repaid without delay and in accordance with the procedures laid down by Dutch law, in so far as they allow the immediate and effective implementation of the Commission's decision. The amount repayable includes interest calculated from the date on which the aid was granted until the date on which it is actually recovered. Interest is calculated on the basis of the reference rate used to calculate the grant equivalent of regional aid.

E. Conclusions

- (52) The aid paid out to the six manure-processing companies in question constitutes aid which distorted competition and affected trade within the meaning of Article 87(1). The derogation in Article 87(3)(c) is not applicable because the conditions laid down in the Community guidelines on State aid for environmental protection or in the Community guidelines on State aid for small and medium-sized enterprises are not met.
- (53) The aid is therefore incompatible with the common market. The Commission finds that the Kingdom of the Netherlands has unlawfully implemented the aid in breach of Article 88(3). The aid must be recovered,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the Kingdom of the Netherlands has implemented in favour of the manure-processing companies Ferm-o-Feed BV, Fleuren Compost BV, Vloet Oploo BV, Smith Markelo, Arev Venhorst and Memon KPI, amounting to EUR 2 501 089, is incompatible with the common market.

⁽¹²⁾ Decision 92/316/EEC (OJ L 170, 25.6.1992, p. 34).

⁽¹³⁾ Case 70/72 *Commission v Germany* [1973] ECR 813.

⁽¹⁴⁾ Case 310/85 *Deufil v Commission* [1987] ECR 901.

⁽¹⁵⁾ Case C-5/89 *Commission v Germany* [1990] ECR I-3437.

Article 2

1. The Kingdom of the Netherlands shall take all necessary measures to recover from the recipients the aid referred to in Article 1 and unlawfully made available to them.
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 recipients 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 3

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

Article 4

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 December 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION**of 7 February 2001****on the State aid which the Netherlands intends to grant to China in the form of development assistance for the construction of a high-technology dredger***(notified under document number C(2001) 333)***(Only the Dutch text is authentic)****(Text with EEA relevance)****(2001/522/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 regard to Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding ⁽¹⁾,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽²⁾, and in particular Article 7 thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) cited above and having regard to their comments ⁽³⁾,

Whereas:

I. PROCEDURE

- (1) By letter dated 17 August 1999 the Netherlands authorities notified the Commission of a development assistance they were planning to grant to China for the purchase of a 12 000 m³ dredger. Further information was provided on 6 October and 16 December 1999.
- (2) By letter dated 20 March 2000 the Commission notified the Netherlands authorities of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid. The Netherlands authorities submitted their comments to the Commission by letters from their Permanent Representative dated 26 May and 23 October 2000.
- (3) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities*. The Commission invited interested parties to submit their comments on the aid in question.

- (4) The Commission did not receive any comments from interested parties.

II. DETAILED DESCRIPTION OF THE AID

- (5) The project, which provides for development assistance under a general scheme for aid to developing countries, concerns the sale of a 12 000 m³ dredger costing NLG 160 million (EUR 72,6 million) to China Harbour Engineering Company (CHEC). The aid takes the form of a 14-year subsidised loan of 100 % with a three-year grace period at the rate of 4,17 %, i.e. a grant-equivalent of 31,25 %. The vessel is to be built at the IHC Holland shipyard at Kinderdijk. According to the Netherlands authorities, CHEC would be unable to purchase the dredger without the aid.
- (6) The Commission decided to initiate the Article 88(2) procedure because it doubted that the project complied fully with the conditions laid down in Article 3(5) of Regulation (EC) No 1540/98 concerning the compatibility of aid related to shipbuilding granted as development assistance.
- (7) New provisions concerning aid for shipbuilding have been incorporated into Article 3(5) of Regulation (EC) No 1540/98 in cases where the aid is granted in the form of development assistance to a developing country. The Article states that such aid may be deemed compatible with the common market if it complies with the terms laid down for that purpose by OECD Working Party 6 in its Agreement concerning the interpretation of Articles 6 to 8 of the OECD Understanding on Export Credits for Ships. The Commission must verify the particular development content of the proposed aid and satisfy itself that it falls within the scope of the OECD Understanding on Export Credits and that the offer of development assistance is open to bids from different yards.
- (8) On the basis of the information available to the Commission, it concluded that the project complied with the OECD criteria.
- (9) However, the Commission doubted whether the development assistance was open to bids from different yards.

⁽¹⁾ OJ L 202, 18.7.1998, p. 1.

⁽²⁾ OJ L 83, 27.3.1999, p. 1.

⁽³⁾ OJ C 148, 27.5.2000, p. 14.

- (10) It also had doubts about the development assistance aspect of the project given that Chinese companies also carry out dredger activities outside China. Although there was sufficient evidence that the dredger in question would initially be used in a major Shanghai project, it was not clear at that stage that it would not be used outside China once the work in the Shanghai area had been completed. In view of the size of the new ship, it was also possible that CHEC might be able to release smaller vessels from its fleet for use on foreign projects.

III. COMMENTS FROM THE NETHERLANDS

- (11) The Netherlands authorities provided further information by letters dated 30 May, 3 July and 3 October 2000. The final letter confirmed the information provided in the course of bilateral meetings held with the Commission on 25 July and on 4 and 15 September 2000.
- (12) The Netherlands authorities point out that notification was given of the Netherlands provisions on development assistance and that the information provided on the various instruments was extremely comprehensive. The information had been published in the Netherlands Official Gazette ('Staatscourant') and in brochures drawn up in English and Dutch which had been disseminated in the Netherlands and abroad. It had also been posted on the website of the Ministry of Economic Affairs. Regular briefings on developing countries had also been held.
- (13) As the Netherlands authorities have made clear, the development assistance system is available to all Netherlands companies, but responsibility for processing bids and awarding contracts lies with the developing country. They stress that, in general, contacts between the Netherlands shipyards and their foreign customers take place without government involvement. When negotiations are started with a customer from a developing country, an application is lodged for development assistance. In general, the authorities take the view that the Netherlands Government should not intervene in business negotiations.
- (14) However, with a view to accommodating the Commission's position that a guarantee should be given that aid is not used for other than its original purpose, the Netherlands authorities have since amended certain aspects of their internal procedures to ensure the greatest possible transparency for shipbuilding projects while also maintaining their policy of non-intervention regarding project selection and the decision-making process. In future they will take steps to bring the possibility of development assistance for specific projects to the attention of various shipyards. Under this new procedure (which cannot be applied retroactively in this case) a shipyard inquiring about the possibility of devel-

opment assistance for a given contract will have to notify the authorities of its intentions at least one month before a formal application is made. Within 48 hours of receiving this 'prior notification', the Netherlands authorities must provide all shipyards with the capacity to build the type of vessel in question with a fax detailing the vessel's main characteristics, the price and the address of the prospective purchaser in the developing country. After receiving the formal aid application, the Ministry of Foreign Affairs must send confirmation of the application to the relevant country. The letter should clearly state that the aid is available to all Netherlands shipyards. An explanatory brochure in English should be attached setting out the development assistance procedure in force in the Netherlands. Lastly, the Netherlands authorities have undertaken not to take an aid award decision less than two months after the formal application has been lodged.

- (15) The Netherlands authorities take the view that, in view of the time that has elapsed since IHC lodged the application, it is not possible to apply the new procedure in this instance. They have put forward a number of elements in support of their case. The shipyard's results have been positive for a number of years and profits are steady or increasing. The transaction with CHEC came about following a restricted international call for tender in which German and Japanese shipyards had taken part, but the contract was awarded to IHC because of its record of cooperation over several years. In addition, the Chinese authorities were well aware that they could work with other Netherlands yards and still qualify for development assistance. However, VNSI, the Netherlands shipbuilding association, confirmed in writing that, at that time, IHC was the only shipyard in the Netherlands capable of building a dredger of that type.
- (16) With regard to development content, the Netherlands authorities have indicated that they contacted the Chinese authorities in connection with the use to be made of the dredger. The Chinese authorities have undertaken in writing that the vessel will be used exclusively in Chinese waters for at least five years, and have confirmed that the existing vessels which may be replaced by the new vessel will also be deployed exclusively in the same waters.

IV. ASSESSMENT OF THE AID

- (17) As explained in the decision to initiate the procedure, the aid for the contract must be tested against the provisions of Article 3(5) of Regulation (EC) No 1540/98, which lays down new rules on development assistance for shipbuilding.

- (18) That Article states that such aid may be deemed compatible with the common market if it complies with the terms laid down for that purpose by OECD Working Party 6 in its Agreement concerning the interpretation of Articles 6 to 8 of the OECD Understanding on Export Credits for Ships. The Commission must verify the particular development content of the proposed aid and satisfy itself that it falls within the scope of the OECD Understanding and that the offer of development assistance is open to bids from different yards.
- (19) The OECD criteria with which the Member States must comply were laid down by the Commission in its letter SG(89) D/311 dated 3 January 1989, amended by letter SG(97) D 4345 dated 10 June 1997. These criteria are as follows:
- (i) aid must not be granted for the building of vessels intended to operate under flags of convenience;
 - (ii) if the aid cannot be classified as OECD official development assistance, the aid donor must confirm that it is granted under an intergovernmental agreement;
 - (iii) the aid donor must give appropriate assurances that the real owner is resident in the beneficiary country and that the beneficiary company is not a non-operational subsidiary of a foreign company;
 - (iv) the beneficiary must undertake not to sell the ship without prior government approval;
 - (v) the aid granted must also include a grant element of at least 25 %, calculated in accordance with the OECD method.
- (20) The Commission takes the view that the development project meets the OECD criteria in so far as:
- (i) the ship will operate under the Chinese flag, which is not a flag of convenience;
 - (ii) China is featured on the list of countries eligible for development assistance annexed to the aforementioned letter from the Commission;
 - (iii) the owner of the vessel in question is a public body which comes under the Chinese Ministry of Finance;
 - (iv) the Chinese authorities have undertaken not to sell the vessel for at least five years;
 - (v) the aid intensity is 25 %.
- (21) In view of the above, and the commitments entered into in writing by the Chinese authorities, the project must be regarded as having real development content.
- (22) As regards whether the offer of development assistance was open to bids from different yards, the Commission would point out that these are new provisions which have been incorporated into Regulation (EC) No 1540/98. In addition, they do not clarify how the Commission should check whether the criterion is met, and therefore it can therefore be interpreted in a number of ways. The Commission takes the view that the criterion should be strictly applied and that the offer of assistance should have been open to bids from other shipyards. In the case in point, which is one of the first to be notified since Regulation (EC) No 1540/98 entered into force, although the general instrument governing development assistance to China in the Netherlands is well known, it would seem that no specific publicity measure was undertaken. Clearly, the procedure applied was the one followed for many years, and the Netherlands authorities failed to apply Article 3(5) in full. This is confirmed by the Netherlands authorities' willingness to review their procedure in future cases.
- (23) It should also be borne in mind that IHC is the only Netherlands shipyard capable of building a vessel of this type, that it obtained the contract in spite of bids from other well-known yards outside the Netherlands and that it does not have any financial difficulties.

V. CONCLUSION

- (24) In the light of the above, and in view of the measures taken by the Netherlands authorities regarding similar cases in future, the doubts underlying the Commission's decision to initiate the Article 88(2) procedure have been resolved. It can therefore be concluded that the project complies with the conditions laid down in Article 3(5) of Regulation (EC) No 1540/98 and that it is compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The development assistance with an intensity of 31,25 % which the Netherlands intends to grant to China for the purchase of a dredger from IHC is compatible with the common market.

Implementation of this aid is accordingly authorised.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 7 February 2001.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 27 June 2001

establishing the ecological criteria for the award of the Community eco-label to all-purpose cleaners and cleaners for sanitary facilities

(notified under document number C(2001) 1670)

(Text with EEA relevance)

(2001/523/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme ⁽¹⁾, and in particular Articles 3, 4 and 6 thereof,

Whereas:

- (1) Article 3 of Regulation (EC) No 1980/2000 provides that the eco-label may be awarded to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) Article 4 of Regulation (EC) No 1980/2000 provides that specific eco-label criteria shall be established according to product groups.
- (3) The measures set out in this Decision have been developed and adopted under the procedures for the setting of eco-label criteria as laid down in Article 6 of Regulation (EC) No 1980/2000.
- (4) The measures set out in this Decision are in accordance with the opinion of the committee set up under Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

Article 1

The product group 'all-purpose cleaners and cleaners for sanitary facilities' (hereinafter referred to as 'the product group') shall be subdivided into two subgroups, which are defined as follows:

all-purpose cleaners: detergent products intended for the routine cleaning of floors, walls, ceilings and other fixed surfaces, and which are dissolved or diluted in water prior to use,

cleaners for sanitary facilities: detergent products intended for the routine removal (including by scouring) of dirt and/or deposits in sanitary facilities, such as laundry rooms, bath-

rooms, showers, toilets and kitchens. Products which are automatically used when a toilet is flushed, for example 'self-dosing-products' such as toilet blocks, or products for use in a toilet's cistern, are not included. Products which have no cleaning effects other than calcium carbonate (scale) removal are not included. Disinfectants are not included.

Products for more specific cleaning uses, such as oven or window cleaners, floor-strippers, polishes, drain cleaners, etc. are not included.

The product group includes not only products which can be used by private consumers but also those products which can be used professionally.

Article 2

The environmental performance and the fitness for use of the product group shall be assessed by reference to the criteria set out in the Annex and its appendix.

Article 3

The product group definition and the criteria for the product group shall be valid for three years from the date on which this Decision takes effect. If revised ecological criteria have not been adopted before the end of this period, their validity shall be extended for a further year.

Article 4

For administrative purposes the code number assigned to the product group shall be '020'.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 27 June 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 237, 21.9.2000, p. 1.

ANNEX

FRAMEWORK

In order to qualify for the eco-label, an all purpose cleaner or a cleaner for sanitary facilities (hereinafter referred to as 'the product') must fall within the product group as defined in Article 1, and must comply with the criteria of this Annex, with tests carried out on application as indicated in the criteria and the technical appendix. Where appropriate, other test methods may be used if their equivalence is accepted by the Competent Body or Bodies assessing the application (hereinafter referred to as the 'Competent Body'). Competent Bodies should recognise tests and verification performed by bodies which are accredited under the standards of EN 45 000 series or equivalent international standards. Where no tests are mentioned, or are mentioned as being for use in verification or monitoring, Competent Bodies should rely as appropriate on declarations and documentation provided by the applicant and/or independent verifications. Where it is indicated that specific documentation and/or declarations are required, these shall be provided by the applicant and/or the manufacturer(s) and/or the suppliers) as appropriate. Where ingredients are referred to, this includes substances and preparations.

The Competent Bodies are recommended to take into account the implementation of recognised environmental management schemes, such as EMAS or ISO 14001, when assessing applications and monitoring compliance with the criteria in this Annex (Note: it is not required to implement such management schemes.)

These criteria aim at promoting:

- the reduction of environmental impact by limiting the quantity of harmful ingredients, by reducing the quantity of detergent used and by reducing packaging waste,
- the reduction or prevention of risks for the environment and for human health related to the use of hazardous substances,
- information that will enable the consumer to use the product in the way that is efficient and minimises environmental impact.

The criteria are set at levels that promote the labelling of all-purpose cleaners and sanitary cleaners that have a low environmental impact.

FUNCTIONAL UNIT

For all purpose cleaners the functional unit (used in the criteria below) is the dosage in grams of the product recommended by the manufacturer for 1 litre of suds (washing water).

For cleaners for sanitary facilities, no functional unit is defined (the relevant criteria below being calculated in relation to 100 g of the product).

ECOLOGICAL CRITERIA

1. Eco-toxicity and biodegradability

The critical dilution volume toxicity (CDV_{tox}) is calculated for each ingredient (i) using the following equation:

$$CDV_{tox}(\text{ingredient } i) = \frac{\text{weight } (i) \times LF(i)}{LTE(i)} \times 1\,000$$

where weight (i) is the weight of the ingredient per functional unit (for all purpose cleaners) or per 100 g of product (cleaners for sanitary facilities), LF is the loading factor and LTE is the long-term toxicity effect concentration of the ingredient. The values of the LF and LTE parameters shall be as given in the detergent ingredient database list (DID list) in point A of the appendix. If the ingredient in question is not included in the DID list, the applicant shall estimate the values following the approach described in point B of the appendix. The CDV_{tox} is summed for each ingredient, making the CDV_{tox} for the product.

For all-purpose cleaners, the CDV_{tox} for the product shall not exceed 400 l/functional unit.

For cleaners for sanitary facilities, the CDV_{tox} for the product shall not exceed 4000 l/100 g product.

The exact formulation of the product shall be provided to the Competent Body, together with the details of the CDV_{tox} calculations showing compliance with this criterion.

2. Phosphorus and phosphonates

The total quantity of elemental phosphorous in the product shall be calculated per functional unit (for all purpose cleaners) or per 100 g of product (cleaners for sanitary facilities) taking into account all ingredients containing phosphorus.

For all-purpose cleaners, the total phosphorus content (P) shall not exceed 0,2 g/functional unit.

For cleaners for sanitary facilities, the total phosphorus content (P) shall not exceed 2 g/100 g of product

Phosphonates (calculated as P) shall not exceed 0,02 g/functional unit in all-purpose cleaners and shall not exceed 0,2 g/100 g of product in cleaners for sanitary facilities.

The exact formulation of the product shall be provided to the Competent Body, together with the details of the calculations showing compliance with this criterion.

3. Anaerobic biodegradability of surfactants

Each surfactant used in the product shall be biodegradable under anaerobic conditions.

The exact formulation of the product shall be provided. The DID list (see point A of the appendix) indicates whether a specific surfactant is anaerobically biodegradable or not (i.e. those that have an entry of 'Y' in the column on anaerobic biodegradability shall not be used). For surfactants which are not included in the DID list, the relevant information from literature or other sources, or appropriate test results, showing that they are anaerobically biodegradable shall be provided. The reference test for anaerobic degradability shall be ISO 11734, ECETOC No 28 (June 1988) or equivalent test method, with the requirement of a minimum of 60 % degradability under anaerobic conditions.

4. Dangerous, hazardous or toxic substances or preparations

(a) The following ingredients shall not be included in the product, either as part of the formulation or as part of any preparation included in the formulation:

- alkylphenoethoxylates (APEOs)
- nitromusks and polycyclic musks, including for example:
 - musk xylene: 5-tert-butyl-2,4,6-trinitro-m-xylene
 - musk ambrette: 4-tert-butyl-3-methoxy-2,6-dinitrotoluene
 - moskene: 1,1,3,3,5-pentamethyl-4,6-dinitroindan
 - musk tibetine: 1-tert-butyl-3,4,5-trimethyl-2,6-dinitrobenzene
 - musk ketone: 4'-tert-butyl-2',6'-dimethyl-3',5'-dinitroacetophenone
 - HHCB: 1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta(g)-2-benzopyran
 - AHTN: 6-Acetyl-1,1,2,4,4,7-hexamethyltetralin
- EDTA (ethylene-diamine-tetra-acetate)
- NTA (nitrilo-tri-acetate)
- quaternary ammonium compounds
- glutaraldehyde.

The exact formulation of the product shall be provided to the Competent Body, together with a declaration that none of the above substances have been included in the product, either as individual ingredient or as part of any preparation included in the formulation.

(b) No ingredient shall be included in the product that is classified as:

- R31 (contact with acid liberates toxic gas),
- R40 (limited evidence of a carcinogenic effect),
- R45 (may cause cancer),
- R46 (may cause heritable genetic damage),
- R49 (may cause cancer by inhalation),
- R68 (possible risks of irreversible effects)
- R50+53 (very toxic to aquatic organisms and may cause long term adverse effects in the aquatic environment),
- R 51+53 (toxic to aquatic organisms and may cause long term adverse effects in the aquatic environment),
- R59 (dangerous to the ozone layer),

- R60 (may impair fertility),
 R61 (may cause harm to the unborn child),
 R62 (possible risk of impaired fertility),
 R63 (possible risk of harm to the unborn child),
 R64 (may cause harm to breastfed babies),

or any combination thereof, according to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ⁽¹⁾, and its subsequent amendments, or according to Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ⁽²⁾, and its subsequent amendments.

Each ingredient of any preparation used in the formulation that exceeds 0,1 % by weight of the preparation shall also meet the above requirement.

Biocides that are used to preserve the product (as allowed under the criterion on biocides below), and that are classified as R50 + 53 or R51 + 53 are nevertheless permitted, but only if they are not potentially bio-accumulative. In this context, a biocide is considered to be potentially bio-accumulative if the $\log P_{ow}$ (log octanol/water partition coefficient) $\geq 3,0$ (unless the experimentally determined BCF ≤ 100).

The exact formulation of the product shall be provided to the Competent Body, together with copies of the material safety data sheets of each ingredient which shall indicate the classification or lack thereof of each ingredient, and a declaration that none of the above substances have been included in the product.

Similarly the suppliers of any preparation used in the formulation shall provide a declaration that their preparation complies with the above requirements.

5. Volatile organic compounds

The product shall not contain more than 10 % (by weight) of volatile organic compounds with a boiling point lower than 150 °C.

The exact formulation of the product shall be provided, together with copies of the material safety data sheets of each organic ingredient and a declaration of compliance with this criterion.

6. Dyes or colouring agents

Any dyes or colouring agents used in the product must be permitted by Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products ⁽³⁾ and its subsequent amendments.

A declaration of compliance with this criterion shall be provided to the Competent Body, together with a full list of all dyes or colouring agents used shall be provided.

7. Fragrances

- (a) The product shall not contain perfumes containing nitro-musks or polycyclic musks, as specified in the criterion above.
- (b) If the product contains one or more of the following fragrances, this shall be clearly indicated on the packaging, mentioning the name or names of the fragrances concerned:

Common name	CAS-No	Common name	CAS-No
Amyl cinnamal	122-40-7	Amylcinnamyl alcohol	101-85-9
Benzyl alcohol	100-51-6	Benzyl salicylate	118-58-1
Cinnamyl alcohol	104-54-1	Cinnamal	104-55-2
Citral	5392-40-5	Coumarin	91-64-5
Eugenol	97-53-0	Geraniol	106-24-1
Hydroxycitronellal	107-75-5	Hydroxymethylpentylcyclohexenecarboxaldehyde	31906-04-4
Isoeugenol	97-54-1		

⁽¹⁾ OJ 196, 16.8.1967, p. 1.

⁽²⁾ OJ L 200, 31.5.1999, p. 1.

⁽³⁾ OJ L 262, 27.9.1976, p. 169.

- (c) Any ingredients added to the product as a fragrance must have been manufactured and/or handled following the code of practice of the International Fragrance Association.

A declaration of compliance with each part of this criterion shall be provided to the Competent Body.

8. Sensitising substances

The product shall not be classified as R42 (may cause sensitisation by inhalation) and/or R43 (may cause sensitisation by skin contact) according to Directive 1999/45/EC.

The exact formulation of the product shall be provided to the Competent Body, together with copies of the material safety data sheets of each ingredient which shall indicate the relevant classification or lack thereof of each ingredient, and also a declaration of compliance with this criterion.

9. Biocides

- (a) The product may only include biocides in order to preserve the product, and in the appropriate dosage for this purpose alone. This does not refer to surfactants which may also have biocidal properties.

The exact formulation of the product shall be provided, together with copies of the material safety data sheets of any preservatives added, as well as information on the dosage necessary to preserve the product. A declaration of compliance with this criterion shall also be provided.

- (b) It is prohibited to claim or suggest on the packaging or by any other communication that the product has an antimicrobial action.

The texts and layouts used on each type of packaging and/or an example of each different type of packaging shall be provided to the Competent Body, together with a declaration of compliance with this criterion.

10. Packaging requirements

- (a) For all-purpose cleaners, the water content shall be $\leq 90\%$ (w/w) (in order to minimise packaging material).
- (b) Sprays containing propellants may not be used.
- (c) Plastics shall be marked according to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste ⁽¹⁾, or DIN 6120 Parts 1 and 2 in connection with DIN 7728 part 1.
- (d) If the primary packaging is made of recycled material, any indication of this on the packaging shall be in conformity with the ISO 14021 standard 'Environmental labels and declarations — Self declared claims (type II environmental labelling)'.
- (e) The primary packaging parts shall be easily separable into mono-material parts.

The exact formulation of the product shall be provided to the Competent Body, together with a sample of the product packaging, including the label. A declaration of compliance with each part of this criterion shall also be provided.

FITNESS FOR USE

11. Fitness for use

The product shall be fit for use, meeting the needs of the consumers.

All relevant data shall be provided to the Competent Body. These shall at least include the results of a performance test comparing the product (at the recommended dosage) with water and with at least one other product (commonly available in the area where the eco-labelled product is to be marketed, and at its recommended dosage). The choice of the reference product(s) and test protocol used for these comparisons shall be justified. The comparative performance shall be assessed for one or more typical surfaces for which the product is promoted. The test parameters and soiling used should reflect realistic conditions, such as the use of aged fat-soil when testing kitchen cleaners and the inclusion of the parameter lime soap dispersing capacity when testing bathroom cleaners. For acidic toilet cleaners, the applicant may use, for example, the IKW test for acidic toilet cleaners published in SÖFW Journal 126 (11/2000). For all purpose cleaners the applicant may use, for example, the test method entitled 'Washing of tiled floors and grease removal from kitchen surfaces' established by CTTN-IREN.

⁽¹⁾ OJ L 365, 31.12.1994, p. 10.

CONSUMER INFORMATION**12. Information on the packaging***(a) Dosage instructions*

For all purpose cleaners, an exact dosage recommendation including a pictogram (such as a 5 l tub and number of caps with ml) shall appear on the packaging.

In the case of a concentrated cleaner for sanitary facilities, it shall be clearly indicated on the packaging that only a small quantity of the product is needed compared to normal (i.e. unconcentrated) products.

The following text (or equivalent text) shall appear on the packaging:

'Proper dosage saves costs and minimises environmental impacts'.

(b) Safety advice

The following safety advice (or equivalent text) shall appear on the product (in both text form and with an equivalent pictogram):

'Keep away from children'

'Do not mix different cleaners'

'Do not inhale the sprayed product' (Note: only for products that are packaged as sprays).

(c) Information and labelling of ingredients

Commission Recommendation 89/542/EEC of 13 September 1989 for the labelling of detergents and cleaning products ⁽¹⁾ shall be applied.

If the product contains perfumes, this shall be indicated on the packaging.

(d) Information about the eco-label

The following text (or equivalent text) shall appear on the packaging:

'For more information visit the EU eco-label web-site: <http://europa.eu.int/ecolabel>'.

A sample of the product packaging, including the label, shall be provided to the Competent Body, together with a declaration of compliance with each part of this criterion.

13. Information appearing on the eco-label

Box 2 of the eco-label shall contain the following text:

- reduced impact on aquatic life
- clear dosage instructions.

14. Professional training

For detergents which are used by professional users, the producer, its distributor or a third party has to offer training or training materials for cleaning staff. These shall include step-by-step instructions for proper dilution, use, disposal and the use of equipment.

A sample of training material and/or a description of training courses shall be provided to the Competent Body.

⁽¹⁾ OJ L 291, 10.10.1989, p. 55.

DETERGENTS INGREDIENTS DATABASE AND APPROACH TO BE FOLLOWED FOR INGREDIENTS NOT LISTED IN THE DATABASE

A. The data given below on the most commonly used detergent ingredients shall be used for the calculation of the ecological criteria

(Note: the parameters NBO, SI, II, THOD as well as the CF-factors for an NBO are not used within this product group)

Detergent ingredients database (DID-list; version 29.9.1998)

DID-No	Ingredients	Toxicity		Loading factor (LF)	Anaerobic non-biodegradable (a NBO)	Aerobic non-biodegradable (a NBO)	Soluble inorganics (SI)	Insoluble inorganics (II)	THOD
		NOEC measured	LTE						
	Anionic surfactants								
1	C 10-13 LAS (Na Ø 11,5-11,8, C14 < 1 %)	0,3	0,3	0,05	Y, CF = 0,75	O	O	O	2,3
2	other LAS (C 14 > 1 %)	0,12	0,12	0,05	Y, CF = 1,5	O	O	O	2,3
3	C 14/17 Alk. sulphonate	0,27	0,27	0,03	Y, CF = 0,75	O	O	O	2,5
4	C 8/10 Alkylsulphate	EC50 = 2,9	0,15	0,02	O	O	O	O	1,9
5	C 12-15 AS	0,1	0,1	0,02	O	O	O	O	2,2
6	C 12-18 AS	LC50 = 3	0,15	0,02	O	O	O	O	2,3
7	C 16/18 FAS	0,55	0,55	0,02	O	O	O	O	2,5
8	C 12-15 A 1-3 EO sulphate	0,15	0,15	0,03	O	O	O	O	2,1
9	C 16/18 A 3-4 EO sulphate	no valid data	0,1	0,03	O	O	O	O	2,2
10	C 8 Dialkylsulphosuccinate	LC50 = 7,5	0,4	0,5	Y, CF = 1,5	O	O	O	2
11	C 12/14 sulpho-fat.-acid methylester	EC50 = 5	0,25	0,05	Y, CF = 0,75	O	O	O	2,1
12	C 16/18 sulpho-fat.-acid methylester	0,15	0,15	0,05	Y, CF = 0,75	O	O	O	2,3
13	C 14/16 alpha olefine sulphonate	LC50 = 2,5	0,13	0,05	Y, CF = 0,75	O	O	O	2,3
14	C 14-18 alpha olefine sulphonate	LC50 = 1,4	0,07	0,05	Y, CF = 2,0	O	O	O	2,4
15	Soaps (C 12-22)	EC0 = 1,6	1,6	0,05	O	O	O	O	2,9

DID-No	Ingredients	Toxicity		Loading factor (LF)	Anaerobic non-biodegradable (a NBO)	Aerobic non-biodegradable (a NBO)	Soluble inorganics (SI)	Insoluble inorganics (II)	THOD
		NOEC measured	LTE						
	Nonionic surfactants								
16	C 9/11 A > 3-6 EO lin. or mono br.	EC50 = 3,3	0,7	0,03	O	O	O	O	2,4
17	C 9/11 A > 6-9 EO lin. or mono br.	EC50 = 5,4	1,1	0,03	O	O	O	O	2,2
18	C 12-15 A 2-6 EO lin. or mono br.	0,18	0,18	0,03	O	O	O	O	2,5
19	C 12-15 (Avg. C < 14) A > 6-9 EO lin. or mono br.	0,24	0,24	0,03	O	O	O	O	2,3
20	C 12-15 (Avg. C > 14) A > 6-9 EO	0,17	0,17	0,03	O	O	O	O	2,3
21	C 12-15 A > 9-12 EO	LC50 = 0,8	0,3	0,03	O	O	O	O	2,2
22	C 12-15 A 20-30 EO	EC50 = 13	0,65	0,05	O	O	O	O	2
23	C 12-15 A > 30 EO	LC50 = 130	6,5	0,75	O	Y	O	O	0 (*)
24	C 12/18 A 0-3 EO	no data	0,01	0,03	O	O	O	O	2,9
25	C 12-18 A 9 EO	0,2	0,2	0,03	O	O	O	O	2,4
26	C 16/18 A 2-6 EO	0,03	0,03	0,03	O	O	O	O	2,6
27	C 16/18 A > 9-12 EO	LC50 = 0,5	0,05	0,03	O	O	O	O	2,3
28	C 16/18 A 20-30 EO	EC50 = 18	0,36	0,05	O	O	O	O	2,1
29	C 16/18 A > 30 EO	LC50 = 50	2,5	0,75	O	Y	O	O	0 (*)
30	C 12/14 Glucose amide	4,3	4,3	0,03	O	O	O	O	2,2
31	C 16/18 Glucose amide	0,116	0,116	0,03	O	O	O	O	2,5
32	C 12/14 Alkylpolyglucoside	1	1	0,03	O	O	O	O	2,3
	Amphoteric surfactants								
33	C 12-15 Alkyl dimethylbetaine	0,03	0,03	0,05	Y, CF = 2,5	O	O	O	2,9
34	C 12-18 Alkyl amidopropylbetaine	0,03	0,03	0,05	Y, CF = 2,5	O	O	O	2,8
	Suds controllers								
35	Silicone	EC0 = 241	4,82	0,4	Y, CF =% 0,75	Y	O	O	0,0
36	Paraffin	no data	100	0,4	O	Y	O	O	0 (*)
	Fabric softening								
37	Glycerol	LC50>5-10 gl	1 000	0,13	O	O	O	O	1,2

DID-No	Ingredients	Toxicity		Loading factor (LF)	Anaerobic non-biodegradable (a NBO)	Aerobic non-biodegradable (a NBO)	Soluble inorganics (SI)	Insoluble inorganics (II)	THOD
		NOEC measured	LTE						
	Builders								
38	Phosphate as Sodium-tri-polyphosphate (STPP)		1 000	0,6	O	O	Y	O	0,0
39	Zeolite A	120	120	0,05	O	O	O	Y	0,0
40	Citrate	EC50 = 85	85	0,07	O	O	O	O	0,6
41	Polycarboxylates and related derivates	124	124	0,4	Y, CF = 0,1	Y	O	O	0 (*)
42	Clay		1 000	0,05	O	O	O	Y	0,0
43	Carbonate/bicarbonate	LC50 = 250	250	0,8	O	O	Y	O	0,0
44	Fatty acid (C ≥ 14)	EC0 = 1,6	1,6	0,05	O	O	O	O	2,9
45	Silicate/disilicate	EC50>1 000	1 000	0,8	O	O	Y	O	0,0
46	NTA	19	19	0,13	O	O	O	O	0,6
47	Polyaspartic acid. Na salt	125	12,5	0,13	Y, CF = 0,1	O	O	O	1,2
	Bleaching								
48	Perborate mono (as borate)	1-10	6	1	O	O	Y	O	0,0
49	Perborate tetra (as borate)	1-10	6	1	O	O	Y	O	0,0
50	percarbonate (see carbonate)	LC50 = 250	250	0,8	O	O	Y	O	0,0
51	TAED	EC0 = 500	EC0 = 500	0,13	O	O	O	O	2,0
	Solvents								
52	C 1-C 4 alcohols	LC50 = 8 000	100	0,13	O	O	O	O	2,3
53	Monoethanolamine	0,78	0,78	0,13	O	O	O	O	2,4
54	Diethanolamine	0,78	0,78	0,13	O	O	O	O	2,3
55	Triethanolamine	0,78	0,78	0,13	O	O	O	O	2
	Miscellaneous								
56	Polyvinylpyrrolidon (PVP/PVNO/PVPVI)	EC50 > 100	100	0,75	Y, CF = 0,1	Y	O	O	0 (*)
57	Phosphonates	7,4	7	0,4	Y, CF = 0,5	Y	O	O	0 (*)
58	EDTA	LOEC = 11	11	1	Y, CF = 0,1	Y	O	O	0 (*)

DID-No	Ingredients	Toxicity		Loading factor (LF)	Anaerobic non-biodegradable (a NBO)	Aerobic non-biodegradable (a NBO)	Soluble inorganics (SI)	Insoluble inorganics (II)	THOD
		NOEC measured	LTE						
59	CMC	LC50 > 250	250	0,75	Y, CF = 0,1	Y	O	O	0 (*)
60	Na Sulphate	EC50 = 2 460	1 000	1	O	O	Y	O	0,0
61	Mg Sulphate	EC50 = 788	800	1	O	O	Y	O	0,0
62	Na Chloride	EC50 = 650	650	1	O	O	Y	O	0,0
63	Urea	LC50 > 10 000	100	0,13	O	O	O	O	2,1
64	Maleic acid	LC50 = 106	2,1	0,13	O	O	O	O	0,8
65	Malic acid	LC50 = 106	2,1	0,13	O	O	O	O	0,6
66	Ca formiate		100	0,13	O	O	O	O	2,0
67	Silica		100	0,05	O	O	O	Y	0,0
68	High MW polymers PEG > 4 000		100	0,4	O	O	O	O	0 (*)
69	Low MW polymers PEG < 4 000		100	0,13	O	O	O	O	1,1
70	Cumene sulphonate	LC50 = 66	6,6	0,13	Y, CF = 0,25	O	O	O	1,7
71	Xylene sulphonate	LC50 = 66	6,6	0,13	Y, CF = 0,25	O	O	O	1,6
72	Toluene sulphonates	LC50 = 66	6,6	0,13	Y, CF = 0,25	O	O	O	1,4
73	Na-/Mg-/KOH		100	1	O	O	Y	O	0,0
74	Enzymes	LC50 = 25	25	0,13	O	O	O	O	2,0
75	Perfume formulation as used	LC50 = 2-10	0,02	0,1	Y, CF = 3,0	Y	O	O	0 (*)
76	Dyes	LC50 = 10	0,1	0,4	Y, CF = 3,0	Y	O	O	0 (*)
77	Starch	no data	250	0,1	O	O	O	O	0,97
78	Zn Phthalocyanine sulphonate	0,16	0,016	0,074 (**)	Y, CF = 2,5	Y	O	O	0 (*)
79	Anionic Polyester (soil release polymer)	EC50 = 310	310	0,4	Y, CF = 0,1	Y	O	O	0 (*)
80	Iminodisuccinate	23	2,3	0,13	Y, CF = 0,25	O	O	O	1,1

DID-No	Ingredients	Toxicity		Loading factor (LF)	Anaerobic non-biodegradable (a NBO)	Aerobic non-biodegradable (a NBO)	Soluble inorganics (SI)	Insoluble inorganics (II)	THOD
		NOEC measured	LTE						
	Optical brighteners = (FWA)								
81	FWA 1 ⁽¹⁾	LC0 = 10	1,0	0,4	Y, CF = 1,5	Y	O	O	0 (*)
82	FWA 5 ⁽²⁾	3,13	3,13	0,4	Y, CF = 0,5	Y	O	O	0 (*)
	Additional ingredients								
83	Alkyl aminoxides (C 12-18)	0,08	0,08	0,05	Y, CF = 2,5	O	O	O	3,2
84	Glycereth (6-17EO) cocoate	EC50 = 32	1,6	0,05	O	O	O	O	2,1
85	Phosphate esters (C 12-18)	EC50 = 38	1,9	0,05	Y, CF = 0,25	O	O	O	2,3

⁽¹⁾ FWA 1 = 4.4-bis (4-anilino-5-morpholino-1,3,5-triazin-2-yl)amino-stilbene-2.2-disulphonate.

⁽²⁾ FWA 5 = Disodium 4.4-bis(2-sulfostryryl)biphenyl.

(*) THOD for aerobically non degradable organic substances is set to zero.

(**) rapid photodegradation.

Notes

Y = yes, criterion applies.

O = no, criterion does not apply.

LTE = long-term effect concentration.

NOEC = non-observed effect concentration.

CF = correction factor for anaerobic non-degradable organic substances.

THOD = theoretical oxygen demand.

B. Approach for ingredients which are not included in the DID-list

For ingredients which are not included in the DID-list, the applicant shall, under his own responsibility, find the appropriate values for the relevant parameters. The reference for the relevant test methods shall be the appropriate annexes of Council Directive 67/548/EC⁽¹⁾.

The approach for estimating long-term-toxicity effect concentration (LTE) and loading factors (LF) is given below.

1. HOW TO ESTIMATE LONG-TERM-TOXICITY-EFFECT CONCENTRATION (LTE)

As LTE the lowest validated long-term toxicity concentration for fish, *daphnia magna* or algae shall be considered.

In cases where data on homologues and/or QSARs (quantitative structure activity relationships) are used, a correction could be considered for the finally selected LTE. If long-term toxicity data (such as NOEC) for one or more of the three species are missing, or only short-term toxicity data (such as LC50) are available, the following uncertainty factors (UF) shall be used:

1.1. Uncertainty factors (UF) for non-surfactants

Data available	UF to be used
3 NOEC on fish, daphnia or algae	1 (take lowest validated NOEC)
2 NOEC on fish or daphnia or algae	5
1 NOEC on fish or daphnia or algae	10
At least 2 acute LC50 on fish or daphnia or algae	100

Deviation from this rule may be admitted if evidence can be provided that lower factors or data can be justified scientifically.

1.2. Uncertainty factors (UF) for surfactants

Data available	UF to be used
At least 2 NOEC on fish or daphnia or algae	1 (lowest NOEC)
1 NOEC on fish or daphnia or algae	1 (if species is most sensitive in acute toxicity) 10 (if species is not the most sensitive in acute toxicity)
3 LC50 on fish or daphnia or algae	20 (lowest LC50)
At least 1 LC50 on fish, daphnia or algae	50 (lowest LC50) or 20 in specific cases (*)

(*) In the last case referred to above, an uncertainty factor of 20 may be used instead of 50 only if 1-2 L(E)C50 (LC50 for fish toxicity, EC50 for *daphnia magna* and algae toxicity) data are available and if it can be concluded from the information for other compounds that the most sensitive species have been tested. Such a rule can be applied only within a group of homologues. It is emphasised that the LTEs used must be consistent within a group of homologues with respect to the influence of, for example length of alkyl chain for LAS (linear alkylbenzene sulphonate) or number of EO (ethoxy groups) for alcohol-ethoxylate. Any deviation from the scheme described above shall be well reasoned for the specific chemical.

2. HOW TO ESTIMATE LOADING FACTORS (LF)

The loading factors (LF) for calculating the critical dilution volume toxicity (CDV_{tox}) reflect the percentage of the substance which passes the sewage treatment system and depends on bio-degradability and sorption tendency of the substance.

2.1. Loading factors for organic substances

Degradability of substance	Sorption	Loading factor (LF)
Ready biodegradable	Low	0,13
	Medium	0,1
	High	0,07

⁽¹⁾ OJ 196, 16.8.1967, p. 1.

Degradability of substance	Sorption	Loading factor (LF)
Inherent biodegradable	Low	0,6
	Medium	0,5
	High	0,3
Non-biodegradable	Low	1
	Medium	0,75
	High	0,4

Note:

Sorption can be estimated by $\log P_{ow}$ (partition coefficient octanol/water), where $P_{ow} < 2$ is considered as 'low sorption', $P_{ow} < \times < 4$ is 'medium sorption' and $P_{ow} > 4$ is 'high sorption'. Where no sorption data are available, low sorption is assumed.

2.2. Special approach for readily degradable surfactants

Type of surfactant	Loading factor (LF) to be used
Readily degradable surfactants in general	0,05
Alcohol ethoxylates (EO < 20) and alcohol ethoxysulphates	0,03
Alcohol sulphates	0,02

2.3. Special approach for inorganic substances

Type of inorganic substance	loading factor (LF) to be used
Soluble inorganic substances	1
Insoluble inorganic substances	0,05