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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 686/2001
of 4 April 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 5 April 2001.

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

Done at Brussels, 4 April 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 4 April 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	87,6
	204	46,7
	212	117,1
	999	83,8
0707 00 05	052	140,4
	624	89,6
	628	144,3
	999	124,8
0709 90 70	052	115,6
	204	66,5
	999	91,0
0805 10 10, 0805 10 30, 0805 10 50	052	78,7
	204	46,4
	212	45,7
	220	57,2
	624	56,6
	999	56,9
0808 10 20, 0808 10 50, 0808 10 90	388	96,2
	400	94,5
	404	108,8
	508	97,9
	512	90,3
	528	88,2
	720	128,4
	804	112,2
	999	102,1
	388	84,1
0808 20 50	512	79,1
	528	81,1
	999	81,4

⁽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 687/2001**of 4 April 2001****on a decision to make no award in respect of the 34th partial invitation to tender for white sugar issued in connection with the standing invitation to tender referred to in Regulation (EC) No 1531/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000⁽²⁾, and in particular point (b) of the second subparagraph of Article 18(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1531/2000 of 13 July 2000 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar⁽³⁾ requires that partial invitations to tender be issued for the export of the sugar in question. Pursuant to Article 8(2) of Regulation (EC) No 1531/2000 a

decision may be taken to make no award in respect of a specific partial invitation to tender.

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

HAS ADOPTED THIS REGULATION:

Article 1

No award shall be made in respect of the 34th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1531/2000 for which the time limit for the submission of tenders expired on 4 April 2001.

Article 2

This Regulation shall enter into force on 5 April 2001.

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

Done at Brussels, 4 April 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 175, 14.7.2000, p. 69.

COMMISSION REGULATION (EC) No 688/2001**of 4 April 2001****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation 1527/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, and in particular Articles 1(2) and 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁴⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 April 2001.

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 4 April 2001.

For the Commission
 Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 4 April 2001 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	9,40	—	0
1703 90 00 ⁽¹⁾	11,76	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 689/2001**of 4 April 2001****fixing the export refunds on white sugar and raw sugar exported in its unaltered state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000 ⁽²⁾, and in particular point (a) of the second subparagraph of Article 18(5) thereof,

Whereas:

- (1) Article 18 of Regulation (EC) No 2038/1999 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 2038/1999 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 19 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality; the latter is defined in Article 1 of Council Regulation (EC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar ⁽³⁾, as amended by Regulation (EC) No 3290/94 ⁽⁴⁾; furthermore, this refund should be fixed in accordance with Article 19(4) of Regulation (EC) No 2038/1999; candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995

laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽⁵⁾; the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination.
- (5) In special cases, the amount of the refund may be fixed by other legal instruments.
- (6) The refund must be fixed every two weeks; whereas it may be altered in the intervening period.
- (7) It follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 2038/1999, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 April 2001.

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

Done at Brussels, 4 April 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 89, 10.4.1968, p. 3.

⁽⁴⁾ OJ L 349, 31.12.1994, p. 105.

⁽⁵⁾ OJ L 214, 8.9.1995, p. 16.

ANNEX

to the Commission Regulation of 4 April 2001 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	38,76 ⁽¹⁾
1701 11 90 9910	A00	EUR/100 kg	36,25 ⁽¹⁾
1701 11 90 9950	A00	EUR/100 kg	⁽²⁾
1701 12 90 9100	A00	EUR/100 kg	38,76 ⁽¹⁾
1701 12 90 9910	A00	EUR/100 kg	36,25 ⁽¹⁾
1701 12 90 9950	A00	EUR/100 kg	⁽²⁾
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4214
1701 99 10 9100	A00	EUR/100 kg	42,14
1701 99 10 9910	A00	EUR/100 kg	42,33
1701 99 10 9950	A00	EUR/100 kg	42,33
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4214

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 19 (4) of Regulation (EC) No 2038/1999.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26.9.1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21.11.1985, p. 14).

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

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

COMMISSION REGULATION (EC) No 690/2001
of 3 April 2001
on special market support measures in the beef sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁽¹⁾, and in particular Article 38(2),

Whereas:

- (1) The Community beef market is currently going through a deep crisis due to a lack of consumer confidence in beef created by the appearance of new cases of bovine spongiform encephalopathy (BSE). Consumption as well as production have recently fallen to unprecedented levels followed by substantial reduction of producer prices. It is estimated that the crisis is likely to continue still for some time. Article 38(1) of Regulation (EC) No 1254/1999 provides that when a substantial rise or fall in prices is recorded on the Community market and this situation is likely to continue, thereby disturbing or threatening to disturb the market, the necessary measures may be taken.
- (2) Such a measure was taken by Commission Regulation (EC) No 2777/2000 of 18 December 2000 adopting exceptional support measures for the beef market⁽²⁾, as amended by Regulation (EC) No 111/2001⁽³⁾, which provides for a purchase scheme for destruction of animals aged more than 30 months and primarily animals which at slaughter are not tested for BSE.
- (3) Regulation (EC) No 2777/2000 is applicable until 30 June 2001 at the latest. Commission Decision 2000/764/EC of 29 November 2000 on the testing of bovine animals for the presence of bovine spongiform encephalopathy and amending Decision 98/272/EC on the epidemic-surveillance for transmissible spongiform encephalopathies⁽⁴⁾ provides that Member States shall ensure that all bovine animals over 30 months of age subject to normal slaughter for human consumption are

examined by one of the approved rapid tests listed in Annex IV(A) to Commission Decision 98/272/EC of 23 April 1998 on epidemic-surveillance for transmissible spongiform encephalopathies and amending Decision 94/474/EC⁽⁵⁾, as last amended by Decision 2000/764/EC, as of 1 July 2001 at the latest.

- (4) In the light of the foregoing, it is appropriate to provide for a new special purchase scheme for meat from tested animals which would allow Member States to store meat as an alternative to destruction as of 1 July 2001 at the latest but which would be applicable earlier in Member States which wish to apply it before that date or in Member States which are authorised to cease to apply Regulation (EC) No 2777/2000.
- (5) In view of the extent of the BSE crisis and in particular of its probable duration, and consequently of the magnitude of the efforts needed to support the market, it would be appropriate for such efforts to be shared between the Community and the Member States especially in view of the large number of animals expected to be purchased under the scheme as well as the limited nature of the budgetary resources available for Community financing.
- (6) This Regulation need not apply in the United Kingdom since Commission Regulation (EC) No 716/96 of 19 April 1996 adopting exceptional support measures for the beef market in the United Kingdom⁽⁶⁾, as last amended by Regulation (EC) No 1176/2000⁽⁷⁾, already provides for a special scheme in that Member State with regard to animals over 30 months of age.
- (7) Dispatches of meat from the United Kingdom and Portugal continue to be subject to Council Decision 98/256/EC of 16 March 1998 concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC⁽⁸⁾, as last amended by Commission Decision 98/692/EC⁽⁹⁾, in the case of the United Kingdom, and to Commission Decision 98/653/EC of 18 November 1998 concerning emergency measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal⁽¹⁰⁾, as last amended by Decision 2000/104/EC⁽¹¹⁾.
- (8) To guarantee a proper functioning of the scheme it is essential that speculative movements of meat and animals are avoided. In this context, a retention period for the animals concerned should be determined.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 321, 19.12.2000, p. 47.

⁽³⁾ OJ L 19, 20.1.2001, p. 11.

⁽⁴⁾ OJ L 305, 6.12.2000, p. 35.

⁽⁵⁾ OJ L 122, 24.4.1998, p. 59.

⁽⁶⁾ OJ L 99, 20.4.1996, p. 14.

⁽⁷⁾ OJ L 131, 1.6.2000, p. 37.

⁽⁸⁾ OJ L 113, 15.4.1998, p. 32.

⁽⁹⁾ OJ L 328, 4.12.1998, p. 28.

⁽¹⁰⁾ OJ L 311, 20.11.1998, p. 23.

⁽¹¹⁾ OJ L 29, 4.2.2000, p. 36.

- (9) Products bought in might be sold after 1 January 2002, when the system of compulsory labelling based on origin laid down by Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ⁽¹⁾, will apply. The labels of the products should therefore be required to include an indication of the country or countries of birth and fattening of the animals concerned, in accordance with Article 13(5) of Regulation (EC) No 1760/2000, together with the indications laid down in Article 2(2) of Commission Regulation (EC) No 1825/2000 ⁽²⁾ laying down detailed rules for the application of Regulation (EC) No 1760/2000, as appropriate.
- (10) In order to obtain the best result in terms of cost efficiency, purchases should be limited to categories of animals over 30 months securing the withdrawal from the market at the lowest possible costs. For the same reason and with a view to increasing the necessary flexibility of the management of the scheme, purchases should be decided following a tendering procedure.
- (11) The market prices for the categories eligible under the scheme and in particular the prices for cows which is the most representative category differ largely from Member State to Member State. It is thus appropriate to determine whether in a Member State the market situation for cows is so weak that it justifies exceptional support of the market. To this end, a system of national trigger prices should apply. Such trigger prices should be by taking into account the average market prices for a representative quality in the three most recent years with normal market situation.
- (12) In order to ensure the highest possible impact on the market it should be provided that different maximum tender prices are fixed per Member State being eligible for purchases in application of the trigger price system. In fixing the maximum price account should be taken of an amount corresponding to the net costs created by the slaughter for human consumption. No maximum price should be fixed which exceeds the prevailing market price increased by the abovementioned amount.
- (13) Provisions should be laid down in respect of conditions of delivery and payment of the quantity awarded. It is appropriate within certain limits to adjust the payments to the successful tenderer where his actual deliveries of meat differ from the reference quality subject of the tender.
- (14) Member States should be free to decide whether the meat taken over should be stored or destroyed. In the latter case, Member States should take all necessary measures to guarantee the final destination for all the meat concerned. Where the meat is intended for storage Member States should determine appropriate methods of storage.
- (15) In order to avoid market disturbance placing on the market of the products stored should be subject to prior approval from the Commission acting in accordance with the Management Committee procedure. Where products are released for purposes of humanitarian aid compliance with international agreements should be guaranteed.
- (16) Taking into consideration the costs under the scheme to be financed by national authorities it is appropriate to provide that receipts from sales of products stored should belong to Member States.
- (17) Provision should be made for Commission experts to check compliance with the conditions as specified.
- (18) The Management Committee for Beef and Veal has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. Member States shall purchase chilled carcasses or half carcasses from bovine animals over 30 months of age of the following categories as defined in Article 3(1) of Council Regulation (EEC) No 1208/81 ⁽³⁾:

- Category B,
- Category D, and
- Category E.

2. Chilled carcasses and half carcasses may be bought in only where they:

- come from animals which at slaughter have been tested negatively by one of the approved rapid tests listed in Annex IV to Decision 98/272/EC,
- have obtained the health mark referred to in Chapter XI of Annex I to Council Directive 64/433/EEC ⁽⁴⁾,
- come from animals which have been present on one or several holdings located in the Member State concerned during at least 6 months prior to slaughter,
- come from animals slaughtered not more than six days previously,
- are presented in accordance with Article 2 of Regulation (EEC) No 1208/81. Where appropriate, Article 1(2) and (3) of Commission Regulation (EEC) No 563/82 ⁽⁵⁾ shall apply when determining the weight of the carcasse. Member States may lay down further specific conditions with regard to presentations of carcasses,

⁽¹⁾ OJ L 204, 11.8.2000, p. 1.

⁽²⁾ OJ L 216, 26.8.2000, p. 8.

⁽³⁾ OJ L 123, 7.5.1981, p. 3.

⁽⁴⁾ OJ L 121, 29.7.1964, p. 2012/64.

⁽⁵⁾ OJ L 67, 11.3.1982, p. 23.

- are classified correctly in accordance with the Community scale provided for in Regulation (EEC) No 1208/81,
- are identified by slaughter number and by a stamped marking indicating the category and the conformation,
- are labelled in accordance with the system introduced by Regulation (EC) No 1760/2000 including the indications laid down in Article 13(5) of that Regulation.

Article 2

1. The purchase price for chilled carcasses to be bought in a Member State under this Regulation shall be determined following a tender procedure.

2. Tendering shall be opened in a Member State which for two consecutive weeks have recorded the average market price for the reference class of category D equal to or below the trigger price listed in Annex I in respect of the Member State concerned.

Tendering shall be suspended in a Member State which for two consecutive weeks have recorded the average market price for the reference class of category D above the trigger price listed in Annex I in respect of the Member State concerned.

The Commission shall decide on the opening and the suspension referred to above.

3. The reference class shall be 04 in Ireland and 03 in other Member States.

4. The conditions for tendering are laid down in Annex II.

5. The provisions of this Regulation shall serve as a permanent general notice of invitation to tender. For each individual tender, the intervention agencies concerned shall draw up a notice of invitation to tender for publication no later than Friday before the closing date for submission of tenders, indicating in particular the address of the competent body authorised to receive tenders. The deadline for submission of tenders shall be 12 noon (Brussels time) on the dates indicated in Annex III.

Within 24 hours of the deadline for the submission of tenders, the intervention agencies shall notify the Commission of the tenders they have received.

Article 3

1. In the light of the tenders received under each individual invitation to tender and in accordance with the procedure laid down in Article 43 of Regulation (EC) No 1254/1999 a maximum buying-in price relating to the reference class shall be fixed. A different price may be set per Member State.

The maximum price shall not exceed the trigger price plus EUR 14 per 100 kg carcasce weight.

2. Tenders shall be rejected

- if the price quoted is higher than the prevailing price for the reference class of category D plus EUR 14 per 100 kg carcasce weight,
- if the price quoted is higher than the maximum price referred to in paragraph 1.

3. A decision may be taken to make no award.

4. Rights and obligations arising under invitations to tender shall not be transferable.

Article 4

1. The competent authorities shall inform the individual tenderers immediately of the outcome of their tenders.

At the same time the successful tenderers shall be informed of the quantity to be delivered and the price at which the award was made.

2. Delivery of the quantity awarded shall take place within 17 calendar days from the day of publication of the Regulation fixing the maximum buying-in price. The Member State may in exceptional cases extend that period by a maximum of one week.

Taking into account the provisions of paragraph 3 the Member State shall determine the point of take-over and publish it in the notice of invitation to tender referred to in Article 2(5).

3. Carcasses delivered shall be accepted and taken over subject to verification by the competent authority that they comply with the requirements laid down in this Regulation. The competent authority shall furthermore systematically check and record the weight and classification of each carcasce and keep the records produced.

4. If the quantity actually delivered and accepted is less than the quantity awarded, the security shall:

- (a) be released in full where the difference is not more than 5 %;
- (b) except in cases of *force majeure*, be forfeited;
 - in part, corresponding to the quantities not delivered or not accepted where the difference is not more than 15 %,
 - in full in other cases.

Article 5

1. The competent authority shall pay successful tenderers the price quoted in their tenders no later than 65 days after completion of take-over of the products concerned.

2. Only the quantity actually delivered and accepted shall be paid for within the limit of the quantity awarded.

3. Where carcasses of classification classes other than O are taken over, the price to be paid to the successful tenderer for the carcasses concerned shall be adjusted by applying the coefficients fixed in Annex IV.

4. The rate to be applied to the maximum buying-in price and the price at which the award is made shall be the exchange rate applicable on the day of entry into force of the Regulation fixing the maximum buying-in price under the invitation to tender concerned.

5. The Community shall finance 70 % of the price of the meat purchased under this Regulation.

The Member State concerned shall finance the remaining 30 % as well as all costs related to the operations under Articles 6, 7, 8 and 9.

Article 6

After taking over the meat the competent authority may use the products concerned in conformity with Article 9 or eliminate them in accordance with Article 7, with or without prior storage.

Article 7

Where the option of elimination is applied the competent authority shall take all necessary measures to ensure that all the meat concerned is processed through rendering and that the products subsequently obtained cannot be used for food or feed purposes.

Article 8

1. Where a Member State decides to store the meat it may be stored in bone-in or boneless form or in form of canned products. The Member State concerned shall determine specifications related to cutting, deboning, canning, storage and/or any other operations linked to the products and their storage.

2. Member States shall notify to the Commission at the end of each month, in respect of the preceding month, the quantities and characteristics of the stored products.

3. During storage, the competent authority shall conduct regular checks in particular with a view to ensuring the permanent presence in stocks of the products.

Article 9

1. Where meat is intended to be used for purposes other than under Article 7, it may be released:

- without a specific destination or use,
- with a specific destination or use on the Community market,
- for commercial export, or
- for the purpose of a specific humanitarian aid operation in a third country.

Where the meat is used in accordance with the third or fourth indent above no export refunds shall be granted on the quantities concerned.

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

Done at Brussels, 3 April 2001.

2. Member States shall take all necessary measures to ensure that the products released under the last three indents of paragraph 1 are used for the purpose intended.

3. Release of the products under the first three indents of paragraph 1, shall be made in a way which avoids both disturbance of the market and direct competition with disposal of intervention products.

4. Release of the products under paragraph 1 can only be made upon prior approval from the Commission acting in accordance with the procedure laid down in Article 43 of Regulation (EC) No 1254/1999.

5. Where a Member State intends to release stored products with a view to providing humanitarian aid to a third country it shall ensure that all relevant provisions under international agreements are complied with.

Article 10

Proceeds from sales of products in conformity with this Regulation shall belong to the Member State concerned.

Article 11

Without prejudice of Article 9 of Council Regulation (EC) No 1258/1999 ⁽¹⁾, Commission experts accompanied where appropriate by experts from Member States may carry out on-the-spot checks to verify compliance with all the provisions of this Regulation.

Article 12

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

It shall apply in all Member States except the United Kingdom from 1 July 2001 until 31 December 2001. However, from the entry into force of this Regulation:

- it shall apply in Member States which no longer apply Regulation (EC) No 2777/2000 in application of Article 3(4) of that Regulation,
- it may be applied in other Member States which shall inform the Commission if and from which time they wish to apply it.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

ANNEX I

Trigger prices referred to in Article 2(2)*(EUR/100 kg carcase weight)*

	Until 30 June 2001	1 July to 31 December 2001
Belgium	180,0	167,3
Denmark	178,2	165,6
Germany	177,7	165,2
Greece	158,0	146,9
Spain	158,0	146,9
France	218,3	202,9
Ireland	193,3	179,6
Italy	158,0	146,9
Luxembourg	188,2	174,9
Netherlands	185,2	172,1
Austria	161,5	150,1
Portugal	158,0	146,9
Finland	169,4	157,4
Sweden	205,7	191,1

ANNEX II

Tendering conditions***Tenders***

1. Only the following may submit tenders:

- (a) slaughterhouses for bovine animals approved in accordance with Article 3(1)(A)(a) of Directive 64/433/EEC, whatever their legal status; and
- (b) livestock or meat traders who have slaughtering undertaken therein on their own account and who are entered in a national VAT register.

2. In response to invitations to tender, interested parties shall submit their tenders to the competent authorities of the Member States where they have been issued, either by lodging a written bid against a receipt or by any other written means of communication accepted by the said authority, with advice of receipt.

3. Interested parties may submit only one tender in response to each invitation to tender.

The Member States shall ensure that tenderers are independent of each other in the terms of their management, staffing and operations.

Where there are serious indications to the contrary or that tenders are not in line with economic facts, tenders shall be deemed admissible only where the tenderer presents suitable evidence of compliance with the second subparagraph.

Where it is established that a tenderer has submitted more than one tender, all the tenders from that tenderer shall be deemed inadmissible.

4. Tenders shall state:

- (a) the name and address of the tenderer;
- (b) one total quantity, expressed in tonnes, of the products of the eligible categories;
- (c) the price expressed per 100 kg of products of the reference class of category D in euro rounded off to not more than two decimal places.

5. Tenders shall be valid only if:

- (a) they relate to at least 10 tonnes;
- (b) they are accompanied by a written undertaking from the tenderer to comply with all the provisions relating to the invitation to tender concerned; and
- (c) proof is furnished that by the closing date for the submission of tenders the tenderer has lodged a tendering security as provided for below in respect of the invitation to tender concerned.

6. Tenders may not be withdrawn after the expiry of the deadline for submission.

7. Tenders shall be confidential.

Securities

1. The maintenance of tenders after the deadline for the submission of tenders and the delivery of the products at the designated point of take-over within the time limit laid down in Article 4(2) shall constitute primary requirements, the fulfilment of which shall be ensured by the lodging of a security of EUR 25 per 100 kg.

Securities shall be lodged with the competent authority in the Member State in which the tender is submitted.

2. Securities shall be lodged in the form of cash deposits as defined in Article 13 and Article 14(1) and (3) of Commission Regulation (EEC) No 2220/85 ⁽¹⁾ or in one of the forms provided for in Article 8(2) of that Regulation.

3. In the case of tenders which are not accepted, securities shall be released as soon as the outcome of the invitation to tender is published.

In the case of tenders which are accepted, securities shall be released on completion of take-over of the products, without prejudice to Article 4(4).

⁽¹⁾ OJ L 205, 3.8.1985, p. 5.

ANNEX III

Dates referred to in Article 2(5)

17 April 2001
 30 April 2001
 14 May 2001
 28 May 2001
 11 June 2001
 25 June 2001
 9 July 2001
 23 July 2001
 27 August 2001
 10 September 2001
 24 September 2001
 8 October 2001
 22 October 2001
 12 November 2001
 26 November 2001
 10 December 2001

ANNEX IV

Coefficients referred to in Article 5(3)**Classification class**

	S E U R	O	P
Belgium	1,13 ⁽¹⁾	1,00	0,74
Denmark	1,24	1,00	0,78
Germany	1,12	1,00	0,74
Greece	1,15	1,00	0,98
Spain	1,27	1,00	0,67
France	1,22	1,00	0,88
Ireland	1,07	1,00	0,91
Italy	1,17	1,00	0,89
Luxembourg	1,20 ⁽¹⁾	1,00	0,83
Netherlands	1,07	1,00	0,92
Austria	1,09	1,00	0,87
Portugal	1,17	1,00	0,83
Finland	1,15	1,00	0,84
Sweden	1,09	1,00	0,76

⁽¹⁾ Where carcasses delivered are classified as S or E the coefficient shall be 1,65.

COMMISSION REGULATION (EC) No 691/2001
of 4 April 2001
amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2235/2000⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 627/2001⁽⁵⁾, corrected by Regulation (EC) No 676/2001⁽⁶⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 627/2001,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to corrected Regulation (EC) No 627/2001 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 5 April 2001.

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

Done at Brussels, 4 April 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 256, 10.10.2000, p. 13.

⁽⁵⁾ OJ L 91, 31.3.2001, p. 3.

⁽⁶⁾ OJ L 93, 3.4.2001, p. 34.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00	0,00
	medium quality ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	0,00	0,00
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	0,00	0,00
	medium quality	25,72	15,72
	low quality	55,09	45,09
1002 00 00	Rye	38,74	28,74
1003 00 10	Barley, seed	38,74	28,74
1003 00 90	Barley, other ⁽³⁾	38,74	28,74
1005 10 90	Maize seed other than hybrid	69,80	59,80
1005 90 00	Maize other than seed ⁽³⁾	69,80	59,80
1007 00 90	Grain sorghum other than hybrids for sowing	38,74	28,74

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 24 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 30 March to 3 April 2001)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	131,64	127,66	109,45	91,99	219,20 (**)	209,20 (**)	131,77 (**)
Gulf premium (EUR/t)	43,20	17,18	6,01	8,77	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: 19,68 EUR/t; Great Lakes — Rotterdam: 29,94 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 April 2000

on the measure implemented by EDF for certain firms in the paper industry

(notified under document number C(2000) 1061)

(Only the French text is authentic)

(Text with EEA relevance)

(2001/274/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 those provisions ⁽¹⁾,

Whereas:

complainant a summary of the information by letters dated 10 July 1996, 29 October 1996, 14 November 1996 and 13 November 1997. The complainant's replies reached the Commission on 31 October 1996, 21 November 1996, 10 December 1996, 25 February 1997, 22 May 1997 and 12 September 1997.

- (3) On 20 May 1998 the Commission decided to initiate the procedure under Article 88(2) of the EC Treaty in respect of the measure. This decision was notified to the French Government by letter No SG(98) D/5741 of 14 July 1998 requesting the French authorities to submit their comments within one month, i.e. by 14 August 1998.

1. PROCEDURE

- (1) By letter of 13 June 1996, registered on 14 June 1996, the Commission received a complaint concerning the preferential terms on which Electricité de France (hereinafter 'EDF') apparently supplied electricity to paper mills which agreed to purchase electrical infrared drying equipment. According to the complainant, EDF took advantage of its absolute control of the French electricity market by endeavouring to influence paper mills' choice of infrared technology by offering preferential rates for electricity, to the detriment of systems operating with other energy sources, in particular natural gas.
- (2) By letters dated 10 July 1996, 24 July 1996, 4 November 1997, 4 December 1997 and 12 January 1998, the Commission asked the French authorities for more detailed information. This reached the Commission on 18 July 1996, 28 August 1996, 25 November 1997 and 22 January 1998. The Commission sent the
- (4) By letters dated 28 July 1998, 11 September 1998, 7 October 1998, 24 December 1998 and 19 January 1999, the French authorities asked the Commission not to publish certain information contained in the decision to initiate the procedure under Article 88(2). The Commission replied by letters dated 10 August 1998, 6 October 1998, 22 October 1998, 14 December 1998, 12 January 1999 and 19 February 1999. At meetings held on 21 September and 1 December 1998 the French authorities withdrew their request not to publish information, which in any case had been partly rejected because of the public nature of the matter at issue.
- (5) By letter of 2 September 1998, registered on 7 September 1998, EDF asked for access to the file. The request was rejected by letter of 17 September as all the documents requested fell within the list of exceptions under the policy on access to documents.

⁽¹⁾ OJ C 70, 13.3.1999, p. 10.

- (6) On 31 July 1998 the French authorities asked for a one-month extension of the deadline for their reply. Their request was accepted by the Commission on 5 August 1998.
- (7) By letter of 4 September 1998, registered on 7 September 1998, the French authorities submitted their comments.
- (8) The Commission notice to interested parties asking them to submit their observations on the measure in question was published on 13 March 1999 in the *Official Journal of the European Communities* ⁽²⁾. By 13 April 1999, the deadline given in the notice, the interested parties had submitted two observations. By letters dated 4 June and 9 June, these were forwarded to the French authorities, which had the opportunity to comment on them. In the same letter, the Commission also asked for additional information.
- (9) At a meeting held on 28 May 1999 and by letter of 28 June 1999, registered on 29 June, the French authorities supplied the information requested.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Introduction

- (10) EDF, which is wholly controlled by the French State, is the dominant electricity producer in France, where it used to have a vertically integrated monopoly, both in law ⁽³⁾ and in fact. Electricity prices are fixed by EDF following approval by the Finance Ministry.
- (11) For at least the last 10 years, EDF has announced considerable unutilised capacity. It had initially estimated that this overcapacity would be absorbed by the market by 1997/1998. Recently, however, it has modified its own estimates and now believes that the overcapacity will last until at least 2010, the growth in the French economy being less buoyant than expected.
- (12) In order to dispose of its surplus, EDF grants its customers in certain industrial sectors commercial holdings for extra consumption resulting from 'efficient and innovative' applications of electricity. The electrical technologies and industrial sectors enjoying these bene-

fits are the following: reversible air conditioning; radiant panels, membrane technology; CMB, electrolysis, high-efficiency electric motors and electronic speed variation (all sectors); electrical tubing (chemicals); ohmic heating (chemicals, food and glass); induction (metal-working and chemicals), infrared and other radiation techniques (paper, textiles and food).

- (13) In the [...] (*) and [...] industries, these practices resulted in electricity supply contracts being concluded, in particular with [...] and [...]; these are also under examination by the Commission. In the paper industry, the commercial policy conducted by EDF took the form of some 10 'commercial holding' projects between 1990 and 1996 aimed, in particular, at encouraging the installation of infrared drying equipment. EDF granted subsidies in this way to the Condat, Cascades, Lancey, Gromelle and Sibille Stenay ('Sibille') paper mills.

2.2. Recipients and detailed description of the measures

- (14) When the paper mills concerned purchase the drying equipment, EDF gives them an advance corresponding to the discount on the quantity of electricity which the dryers, according to the mills' estimates, will use during the life of the supply contract, which is usually six years. EDF thus calculates the discount in order to spread the initial holding over the presumed annual additional consumption of electricity by the dryers and over the lifetime of the supply contracts. However, the calculation does not take account of interest on the advance in question and on consumption. The discounts given below are expressed at their present (discounted) 1999 value ⁽⁴⁾.
- (15) **Condat:** in June 1989, October 1990 and April 1995 the mill acquired three electrical infrared drying machines with an additional consumption of 9, 21 and 18 GWh a year respectively ⁽⁵⁾. It received from EDF a total of FRF 15,8 million (EUR 2,41 million) for additional electricity consumption over six years, of which FRF 10,5 million (EUR 1,6 million) was in the form of an advance and FRF 5,3 million (EUR 0,81 million) in the form of an operating grant paid annually to the customer. The actual discount amounts to 6,2 c/kWh (EUR 0,95/kWh) or 27 % of the average price of 22,8 c/kWh (EUR 3,48/kWh). The present value of the discount is FRF 22,6 million (EUR 3,45 million).
- (16) **Cascades:** in April 1992 EDF granted FRF 250 000 (EUR 38 112) for the development of a new membrane technology aimed at the recycling of coating effluent, involving additional annual consumption of 0,75 GWh

(*) Business secret.

(4) The reference rate used by the Commission in order to measure the aid element of subsidies is 4,76 % as at 1 August 1999.

(5) On the basis of the information provided by the French authorities on 21 January 1998, the Commission included in its decision to initiate the procedure a commercial incentive of FRF 6,6 million (EUR 1,01 million) for the installation of a fourth drying machine. In their letter of 28 June 1999 the French authorities provided proof that the fourth machine had not been installed. The Commission therefore removed the incentive for that machine from the calculation of the discount.

⁽²⁾ See footnote 1.

⁽³⁾ Before Law No 2000-108 of 10 February 2000 on the modernisation and development of the public electricity service (*Official Gazette of the French Republic* of 11 February 2000, p. 2143).

over three years. The real value of the discount amounts to 11,6 c/kWh (EUR 1,77/kWh) or 59 % of the average price of 19,6 c/kWh (EUR 2,99/kWh). The present value of the discount is FRF 346 185 (EUR 52 775).

- (17) **Lancey**: in March 1996 it acquired two electrical infrared drying units and an effluent treatment unit. It therefore benefited from a commercial incentive from EDF of FRF 2,25 million (EUR 0,34 million) for an annual additional consumption of 15 GWh over six years. This amounts to a real discount of 2,7 c/kWh (EUR 0,41/kWh) or 15 % of the average price of 17,8 c/kWh (EUR 2,71/kWh). The present value of the discount is FRF 2,87 million (EUR 0,44 million).
- (18) **Gromelle**: in March 1993 EDF granted it a holding of FRF 130 000 (EUR 19 818) for an electric drying unit with an annual additional consumption of 0,8 GWh over six years. The real average discount is 3,0 c/kWh (EUR 0,46/kWh) or 8 % of the average price of 37,8 c/kWh (EUR 5,76/kWh). The present value of the discount is FRF 171 840 (EUR 26 196).
- (19) **Sibille**: for installing an electric dryer, EDF granted it (i) in July 1992 the sum of FRF 1,35 million (EUR 0,21 million) for an annual additional consumption of 7 GWh, (ii) in April 1996 the sum of FRF 283 000 (EUR 43 143) for reconditioning and (iii) again in April 1996 a further commercial incentive of FRF 230 000 ⁽⁶⁾ (EUR 35 063) for further additional consumption of 1,2 GWh over a period of six years. The real average discount amounts to 4,6 c/kWh (EUR 0,70/kWh) or 19 % of the average price of 24,2 c/kWh (EUR 3,69/kWh) for an annual additional consumption of 8,2 GWh. The present value of the discount is FRF 2,72 million (EUR 0,41 million).
- (20) **IRS**: in order to help finance the development of infrared drying technology, EDF granted InfraRouge-System ('IRS') a loan of FRF 3 million (EUR 0,46 million) in 1996. The loan was apparently to be repaid over five years depending on the firm's turnover in France and abroad. The present value of the loan is FRF 3,45 million (EUR 0,53 million).
- (21) The present value of the discounts and the loan is FRF 32,2 million (EUR 4,9 million).

3. PRINCIPAL REASONS WHICH LED TO THE DECISION TO INITIATE THE PROCEDURE

- (22) The Commission decision to initiate the procedure under Article 88(2) was based on (a) suspected aid with

⁽⁶⁾ In their letter of 4 September 1998 the French authorities stated that EDF had demanded reimbursement of the sums for the paper machine and the infrared equipment generating additional consumption of 1,2 GWh which had been out of use since the end of 1997. Since they acknowledge in their letter of 28 June 1999 that the incentive has not been paid back, the Commission is including the sum of FRF 230 000 (EUR 35 063) in the calculation.

regard to preferential tariffs granted to certain paper mills and (b) the commercial logic of the loan granted by EDF to IRS.

3.1. Preferential tariffs for certain paper mills

- (23) The Commission considers that preferential tariffs are caught by the ban in Article 87(1) of the EC Treaty if they meet the following three conditions: (a) they are granted by the State or through State resources; (b) they favour certain firms or the production of certain goods; and (c) they distort competition between the favoured firms and similar firms and/or products in other Member States, the products concerned being traded between Member States.
- (24) As to the second condition, there was doubt whether the fact that certain paper mills benefited from a preferential electricity tariff was tantamount to granting them an advantage.
- (25) At first sight, EDF did not appear to cover the marginal cost and at least a proportion of its fixed costs. Where long-term electricity supply contracts are concerned, a generator must take account of a significant proportion of its fixed costs even if it has surplus capacity.
- (26) What is more, it did not appear that EDF had any need to grant price discounts in order to compete, as there are no competitors at present on the French electricity market, or to keep customers it might lose without offering such discounts ⁽⁷⁾.
- (27) Lastly, the preferential prices granted to the paper mills concerned appeared to discriminate against other electricity consumers in a comparable situation.

3.2. Loan granted by EDF to IRS

- (28) Without more detailed information and in view of the difficult financial position of IRS, there is some doubt as to the commercial logic of the loan granted by EDF.

4. OBSERVATIONS BY THE INTERESTED PARTIES

- (29) Following publication of its decision to initiate the procedure under Article 88(2) of the EC Treaty in respect of the aid in question, the Commission received observations from two interested parties, namely an aid recipient (Cascades) and EDF.

⁽⁷⁾ Joined Cases 67, 68, and 70/85 *Van der Kooy* [1988] ECR 219.

4.1. Observations by Cascades

- (30) Cascades states that it is equipped solely with gas infrared systems by the firm Solaronics and has no electrical infrared equipment; EDF therefore did not influence its choice. However, EDF did grant the sum of FRF 250 000 for the development of a new membrane technology aimed at the recycling of coating effluent. The discount in question was not spread over three years. Lastly, electricity consumption corresponded to the motor of the pump feeding the installation, which, according to Cascades, could not be powered in any other way, and so this in no way penalised or discriminated against either another equipment provider or another energy provider.

4.2. Observations by EDF

- (31) EDF considers that neither the discount granted to the paper mills nor the contract with IRS contains elements of State aid and that the interpretation of Articles 87 and 88, as proposed by the Commission in this case, may discriminate against public electricity companies in favour of private electricity companies by denying the former the commercial freedom which all companies may enjoy under the Treaty.
- (32) Firstly, EDF maintains that the discount covers all variable costs and a very substantial proportion of the company's fixed costs. According to a study carried out by the consultant Hagler-Bailly, the prices offered by EDF for additional consumption by paper mills linked to new equipment cover all variable costs and, on average, 57 % of fixed costs.
- (33) Furthermore, in order to gauge the real impact of the discount on competition and intra-Community trade, EDF considers that it should be calculated in relation to the average price paid by a paper mill for the total energy consumption of its site. According to EDF, the discount for Condat, Lancey and Sibille, expressed as a percentage of total site consumption (in 1996), amounted to 0,8 %, 3,4 % and 1,3 % respectively. Given that the effect of the cost of electricity on the cost of paper ranges from 5 % to 10 % depending on the quality of the paper, the 'advantage' which the discount represents in terms of electricity costs is, according to EDF, between 0,04 % and 0,08 % for Condat, between 0,17 % and 0,34 % for Lancey and between 0,065 % and 0,13 % for Sibille.
- (34) Furthermore, EDF states that the agreement concluded in 1996 with IRS does not constitute a simple loan but a particular kind of partnership. Under the terms of the agreement, IRS undertook to develop electrical infrared applications. In exchange, EDF made available to IRS the

sum of FRF 500 000 to contribute to the development of commercial communication and the sum of FRF 2,5 million to be repaid over five years on the basis of IRS's annual turnover.

- (35) Under the contract, IRS must each year repay 4 % of its turnover generated by the sale of electrical infrared equipment. However, following a downturn in its business, it did not keep to this commitment. At the request of EDF, the Paris commercial court issued an interim order against IRS on 11 February 1999. IRS has three months in which to pay off its debt by making an interim payment of FRF 870 769,39. If it fails to do so, the entire debt will be immediately payable.
- (36) Finally, EDF points out that the Commission interprets Articles 87 and 88 of the Treaty in a way which restricts the commercial freedom of public electricity companies in favour of private companies. If EDF were a private company, the market behaviour which is being challenged would be perfectly permissible.

5. COMMENTS BY FRANCE

- (37) The French authorities replied to the Commission decision to initiate the Article 88(2) procedure by two letters, dated 4 September 1998 and 29 June 1999, which are summarised below.

5.1. Letter of 4 September 1998

- (38) In their reply of 4 September 1998 concerning the initiation of the procedure, the French authorities observed that the discount granted to the firms concerned in the paper industry did not constitute State aid within the meaning of Article 87(1) of the Treaty, for the following reasons:
- (39) According to them, the commercial strategy at issue stemmed from a decision taken by the company itself and was not dictated by any measure, decision or incentive originating from them. The fact that EDF is wholly owned by the French State does not *ipso facto* make the State responsible for commercial measures of limited scope such as the one in question.
- (40) The French authorities state that, like any other electricity company, public or private, EDF has a legitimate commercial interest in encouraging the development of technologies and equipment likely to stimulate the demand for electricity and create new outlets for the company's product. The discount for additional consumption could not be called a preferential tariff. According to the French authorities, it constituted established, legitimate commercial practice based on objective, non-discriminatory criteria.

- (41) Furthermore, the French authorities point out that the prices charged for overall consumption of the industrial sites concerned are calculated so as to cover, and to cover effectively, all the costs of the contracts in question. The Commission simply calculates the effect of the discount on additional consumption alone. According to the French authorities, this approach does not appear to be in line with the principle of the market economy operator. They consider that the Commission cannot establish that an operator in a market economy, put in EDF's position, would make sure of the profitability of each of the elements of a given commercial relationship with an industrial consumer. In any case, since the prices at issue relate to additional consumption, the French authorities maintain that the discount was calculated so as to arrive at a price which covers not only all the variable costs but also around 50 % of fixed costs.
- (42) Furthermore, the French authorities consider that, although the commercial practice set in place normally lasts for six years, the beneficial effects it has on electricity consumption last well beyond the incentive period, in fact throughout the life of the equipment, i. e. between 12 and 15 years. This means that the extra electricity consumption and the revenue it generates may be calculated over a much longer period than the period for which the discount is granted.
- (43) With regard to its overcapacity, the French authorities confirm that EDF has a surplus of energy from nuclear sources. They claim that the NERA study shows that EDF did not knowingly arrange this overcapacity and that its commercial policy towards customers allowing it to absorb the surplus is carried on under pricing conditions which cover all variable costs and a large proportion of fixed costs.
- (44) They go on to stress that the discount is not applied in a discriminatory manner. They point out that the tariff conditions for [...] and [...] have a fundamentally different background from the case in question, linked mainly to the electricity-intensive nature of the industrial activities concerned, which exceeds 50 %. Given that energy costs account for only 5 % to 10 % of the total cost of paper manufacture, the paper industry is not an electricity-intensive sector.
- (45) The French authorities believe that the Commission overestimates the importance of the discount for the competitive position of EDF's industrial customers. In their view, the effect of the discount on the average price charged by the paper firms is minimal. In the same way, they emphasise that it would be wrong to maintain that EDF's practice of giving commercial incentives has 'diverted' the market from its natural course of using gas, since electrical equipment is a more attractive option.
- (46) Lastly, the French authorities end their letter by explaining that, at the time of the negotiations for the EDF/IRS contract in 1996, EDF could, on the contrary, expect an increase in electricity consumption as a result of the introduction of infrared technology in many industrial sectors in which IRS is active. Sales of electrical infrared equipment by IRS in 1996 and 1997 realised FRF 18 million. According to the French authorities, such prospects should lead to additional income.
- (47) According to the French authorities, EDF estimates that infrared equipment with a total power of 300 MW was installed in industry in France in 1996. According to EDF, annual electricity consumption generated by such equipment is over 720 GWh, representing estimated annual income of FRF 200 million. In the paper industry alone, infrared technology generates consumption of 120 GWh. In view of the number of machines not yet equipped with this technology, EDF estimates that the pool of consumption still accessible is 125 GWh, representing estimated potential annual income of FRF 30 million.
- ### 5.2. Letter of 29 June 1999
- (48) By letter of 4 June 1999, the Commission asked the French authorities to reply to the questions in its decision to initiate the procedure which still remained unanswered and to a number of other questions arising from the observations made by third parties.
- (49) In response to this request, the French authorities supplied calculation sheets concerning the rate of coverage of fixed costs for additional consumption resulting from the installation of electrical infrared drying equipment. According to them, these calculations were made and endorsed by the independent consultant Hagler-Bailly. They indicate that, for additional consumption generated by the infrared installations, the commercial terms cover all variable costs and, on average, 57 % of fixed costs.
- (50) They point out in this connection that the commercial incentives introduced for new consumption do not lead to lower tariffs but, through increased sales, make it possible to cover more of the fixed costs of EDF's generation system, thereby directly benefiting all of its customers.
- (51) As regards the comparison between the tariff terms in the case in question and those of [...] and [...], the French authorities state that the two situations are not in fact comparable. For [...] and [...] electricity accounts for over 50 % of the cost of manufacturing the final product, while in the paper industry it accounts for less than 5 %. According to a statistical study by VDEW based on data supplied by the German Statistisches Bundesamt, DIW

and Unipede, electricity accounts for 2,4 % of the cost of paper production. Similarly, a study of the 1997 report by SESSI (statistics department of the French Economics Ministry) gives a figure of 4,3 %. The real percentages of electricity intensity for paper manufacture are ten times lower than the figures put forward by the complainant in this case.

- (52) As regards real additional consumption linked to the operation of drying machinery, the authorities explain that this was not measured specifically. The discount was therefore calculated and granted on the basis of the additional consumption generated by this equipment and provided for in the relevant agreements.
- (53) In their letter, the French authorities also confirm that the additional commercial incentive of FRF 230 000 for Sibille has not been repaid.
- (54) With regard to the loan to IRS, the French authorities maintain that the agreement concluded between EDF and IRS on 29 March 1996 is in fact a contract for the provision of services and not a loan agreement. According to them, at the time the contract was signed, IRS was indeed the only manufacturer capable of offering innovatory electrical infrared drying equipment. On the basis of EDF's marketing platform, IRS was therefore chosen since it could provide the services which EDF wanted in the market segment of electrical infrared drying.
- (55) With regard to Condat, one of the recipients of the aid, the French authorities confirm that only three electrical infrared machines were installed by the company and that the fourth, planned at one time, had not been installed since in the end the firm chose a gas-powered infrared machine.
- (56) Lastly, the French authorities explain that the difference between the Commission's and EDF's calculations is due to the fact that the NERA study greatly overestimates the variable cost of a nuclear unit in EDF's generation system. For French nuclear power stations, as in almost all other countries, operating and maintenance costs are fixed costs. This means that the variable cost of nuclear power is basically the cost of the fuel, evaluated for France in the OECD report at USD 0,0083 and 0,0092/kWh as at 1 July 1991, i. e. around FRF 0,05 to 0,06 per kWh in the mid-1990s.
- (57) According to the French authorities, this difference between the variable cost calculated by the NERA study [...] and the real variable cost of French nuclear power stations as evaluated in the OECD's 1992 report [...] suffices to demonstrate, given the structure of the French

generation system, that the short-term marginal cost of supply is [...].

6. ASSESSMENT OF THE MEASURE

6.1. Preferential tariffs for certain paper mills

6.1.1. *De minimis* rule

- (58) The French authorities initially argued that the discounts granted to the Cascades and Gromelle paper mills in 1992 and 1993 respectively were covered by the *de minimis* rule.
- (59) It should be pointed out here that the ceiling applicable in this case is given in the Community guidelines on State aid for small and medium-sized enterprises of 1992 ⁽⁸⁾ (hereinafter 'the guidelines'), i. e. ECU 50 000, this being the only rule which France could rely on in 1992 and 1993.
- (60) The guidelines state that the *de minimis* rule applies to 'aid up to a certain absolute amount, below which Article 92(1) can be said not to apply' and that one-off payments of aid of up to ECU 50 000, in respect of a given type of expenditure and schemes under which the amount of aid a given firm may receive in respect of a given type of expenditure over a three year period is limited to that figure, will no longer be considered notifiable under Article 93(3), provided that it is an express condition of the award or scheme that any further aid the same firm may receive in respect of the same type of expenditure from other sources or under other schemes does not take the total aid the firm receives above the ECU 50 000 limit.
- (61) The value of the discount granted to Cascades in April 1992 was, at the time, FRF 250 000 (ECU 36 000), while that of the discount granted to Gromelle in March 1993 was FRF 130 000 (ECU 18 700). The French authorities have confirmed that Cascades and Gromelle did not receive, under the *de minimis* rule, any other aid and that the ceiling was not therefore exceeded. Consequently, leaving aside the question of whether or not they qualify as aid, the discounts do not exceed the *de minimis* threshold. Article 87(1) does not therefore apply.

6.1.2. *State aid within the meaning of Article 87(1) of the EC Treaty*

- (62) The question is whether the discounts granted to Condat, Lancey and Sibille constitute preferential tariffs caught by the ban in Article 87(1) of the EC Treaty.

⁽⁸⁾ OJ C 213, 19.8.1992, p. 2.

(63) Under that Article, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.

(64) Thus, preferential tariffs are caught by the ban in Article 87(1) of the EC Treaty if they meet the following three conditions:

1. they are granted by the State or through State resources;
2. they favour certain firms or the production of certain goods;
3. they distort competition between the favoured firms and similar firms and/or products in other Member States, the products concerned being traded between Member States.

6.1.2.1. Granted by the State or through State resources

(65) As regards the first point, i. e. aid granted through State resources, the French State wholly owns EDF. Electricity prices are fixed by EDF after approval by the Finance Ministry. Although the company has some freedom as regards its discount policy, it must nevertheless be concluded that the State, through EDF, has the final say as to the advantages enjoyed by the paper mills concerned.

(66) The French authorities' claim that the commercial measures are 'limited in scope' ⁽⁹⁾ must be refuted. They in fact themselves confirm that such measures are part of 'a commercial policy which aims to encourage industrial consumers to develop and use technologies which ensure innovatory, effective and rational use of electricity' ⁽¹⁰⁾. Being part of a 'commercial policy', these commercial measures can hardly be said to be 'limited in scope'.

(67) Therefore, since they are granted by EDF and thus indirectly by the French State, the preferential tariffs for certain paper mills constitute a State measure, with the result that the first condition under Article 87(1) is met.

6.1.2.2. Advantage to certain paper mills

(68) As regards the second point, i.e. the favouring of certain firms or goods, the fact that certain paper mills benefit from a preferential electricity tariff is tantamount to granting them an advantage. In the present case, the advantage consists in the following real average prices for electricity and discounts: **Condat**: 16,6 c/kWh (EUR 2,5/kWh) or FRF 22,6 million (EUR 3,45 million); **Lancey**: 15,1 c/kWh (EUR 2,3/kWh) or FRF 2,87 million (EUR 0,44 million); and **Sibille**: 19,6 c/kWh (EUR 3,0/kWh) or FRF 2,72 million (EUR 0,41 million). The total value of advantages in the form of discounts is FRF 28,2 million (EUR 4,3 million).

(69) In principle, a private or public enterprise can charge different prices according to the use made of the products it sells; however, such differences must be justified on commercial grounds, i.e. they must cover the marginal cost and at least a proportion of the fixed costs.

(70) Experts given the task by the Commission of analysing EDF's surplus capacity and its pricing system ⁽¹¹⁾ estimate the marginal cost to EDF of producing an additional unit of nuclear-generated electricity would be about [...], whereas that produced from fossil fuels (coal and oil) would range from [...]. Where long-term electricity supply contracts are concerned, a generator must take account of a significant proportion of its fixed costs, even if it has a surplus. This would bring the price charged to major industrial consumers to an average of some [...], which would appear to correspond to that invoiced by EDF to its largest customers on the basis of the tariff in force.

(71) By referring to the OECD's 1992 report, which assesses the variable cost of nuclear energy for EDF at 5 to 6 c/kWh (EUR 1/kWh), the French authorities have shown that the NERA study overestimated the variable cost of a unit of nuclear-generated electricity by EDF's generation system. On the basis of this information, they confirm that the short-term marginal cost of supply is [...].

(72) On the basis of a short-term marginal cost of [...], the French authorities have established that the price offered by EDF for this additional consumption covered its variable cost and at least 35 % and, on average, 57 % of its fixed costs. The average rate of cover of fixed costs is 50 % for Condat, 66 % for Lancey and 62 % for Sibille.

⁽⁹⁾ Letter of 4 September 1998, p. 3.

⁽¹⁰⁾ See footnote 9.

⁽¹¹⁾ Study IV/96/1178/ETD/01 'Tariffs and cost consequences of the EDF monopoly', carried out by National Economic Research Associates (NERA), February 1997.

(73) The French authorities confirm that EDF has a surplus of energy from nuclear sources⁽¹²⁾. It should be pointed out that this overcapacity was created in a lawful monopoly situation, well before the current ongoing liberalisation of the electricity market. The Commission's analysis therefore focuses on the particular circumstances of the present case. Consequently, this decision in no way prejudices the conclusions which, against the background of the opening up of the market, the Commission could reach when it examines the problems posed by the creation of such overcapacity by EDF in the past.

(74) Commercial logic dictates that, where there is overcapacity, an operator in a market economy would naturally have been led by the need to maximise profits to sell an additional quantity of his product without covering all the costs for that additional quantity. If he did not, the corresponding quantities which were produced and could not be stored would remain unsold. Furthermore, there is nothing in the case file to show that EDF would have been able to obtain a better price elsewhere. However, the alternative would have been for the paper mills to install gas-powered drying equipment. In this context, obtaining for the additional consumption resulting from the choice of an additional electrical drying machine a price which covers variable costs and at least 35 % and, on average, 57 % of fixed costs must be regarded as a commercially acceptable practice.

(75) Therefore, in view of the particular circumstances in this case, the preferential electricity tariffs granted by EDF to Condat, Lancey and Sibille must be regarded as being justified on commercial grounds.

6.1.2.3. Distorting competition and affecting trade between Member States

(76) Given that a measure cannot be regarded as aid within the meaning of Article 87(1) of the EC Treaty unless all three conditions are met, and given that the second condition (aid favouring certain firms or the production of certain goods) is not met, there is no need to examine the third condition.

(77) In conclusion, the preferential electricity tariffs granted by EDF to the Condat, Lancey and Sibille paper mills do not constitute State aid within the meaning of Article 87(1) of the EC Treaty.

6.2. Loan granted by EDF to IRS

(78) The Commission examined the loan granted by EDF to IRS in the light of Article 87(1) of the EC Treaty. Under that Article, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring

certain undertakings or the production of certain goods constitutes aid within the meaning of the Article in so far as it affects trade.

(79) As demonstrated in recitals 58 to 77 regarding preferential tariffs, the loan granted by EDF to IRS is caught by the ban in Article 87(1) of the EC Treaty only if it favours certain undertakings and if the advantage it confers is not justified on commercial grounds, provided that the other conditions are met.

(80) The Commission would point out that, according to the principle of the private investor acting in a market economy, as set out in the Commission communication to the Member States on application of Articles 92 and 93 (now Articles 87 and 88) of the EC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector⁽¹³⁾ (hereinafter 'the communication'), 'only projects where the Commission considers that there were no objective or bona fide grounds to reasonably expect an adequate return in a comparable private undertaking at the moment the investment/financing decision is made can be treated as State aid' (point 28).

(81) In the case in point, with regard to the decision taken by EDF in 1996 to invest in IRS, the rate of return can be calculated in two ways.

(82) Firstly, there is the repayment of the investment at a rate of 4 % per year of IRS's turnover generated by the sale of electrical infrared equipment. According to EDF, IRS's turnover was FRF 18 million in 1996. Given that IRS was experiencing financial difficulties at the time the investment decision was taken, only a high rate of return would have attracted a private investor. In line with its standard practice, the Commission applies an interest rate of 12 % for high-risk projects. The present value of 4 % of FRF 18 million over five years — the turnover having been adjusted for the inflation rate in France in 1996, i. e. 2 % — is FRF 3 012 024.

(83) Furthermore, EDF estimates that the development of electrical infrared technology and its application in industry could, in the paper industry alone, generate consumption of 125 GWh, i. e. an estimated potential annual income of FRF 30 million.

(84) Given that, when EDF decided to invest in IRS, it reckoned not only to recover the sum invested, with 12 % interest, but also to establish infrared technology in the paper industry, representing potential annual income of FRF 30 million, it may be supposed that it reasoned in the same way as a private investor and that the loan is therefore not to be regarded as State aid.

⁽¹²⁾ See recital 43.

⁽¹³⁾ OJ C 307, 13.11.1993, p. 3.

- (85) Finally, with regard to the rate of return actually obtained, the communication states that, 'there is no question of the Commission using the benefit of hindsight to state that the provision of public funds constituted State aid on the sole basis that the out-turn rate of return was not adequate' (point 28).
- (86) Accordingly, the fact that IRS suffered a downturn in business and did not fulfil its commitment does not alter the nature of the investment at the time of the decision in 1996. In fact, it transpires from information available that in 1996, at the time EDF granted the loan, there was nothing which would have enabled an 'informed' analyst to predict that IRS was likely to suffer a business downturn such that the prospects would be any other than those expected.
- (87) Furthermore, like a private investor concerned to protect his investment, EDF took legal action against IRS, with the result that on 11 February 1999 the Paris commercial court issued an interim order against IRS. The latter has three months in which to pay off its debt by making an interim payment of FRF 870 769,39. If it fails to do so, the entire debt will be immediately payable.
- (88) In conclusion, the loan granted by EDF to IRS does not constitute aid within the meaning of Article 87(1) of the EC Treaty.

7. CONCLUSIONS

- (89) In the light of the above and given that:
1. the preferential electricity tariffs granted to the Cascades and Gromelle paper mills fall within the scope of the *de minimis* rule,
 2. in view of the surplus of energy from nuclear sources at EDF and since for additional consumption EDF is covering its variable costs and, on average, 57 % of its fixed costs, the preferential electricity tariffs

granted to the Condat, Lancey and Sibille are justified on commercial grounds, and

3. at the time EDF took the investment decision, the loan granted by EDF to IRS was justified on commercial grounds,

the Commission finds that neither the preferential electricity tariffs granted to the Cascades, Gromelle, Condat, Lancey and Sibille paper mills nor the loan to IRS constitute aid within the meaning of Article 87(1) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The preferential electricity tariffs granted by EDF, and thus indirectly by France, to the Condat, Cascades, Lancey, Gromelle and Sibille paper mills and the loan granted by EDF to IRS, with a present value of FRF 32,2 million (EUR 4,9 million), do not constitute aid within the meaning of Article 87(1) of the EC Treaty.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 11 April 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION**of 20 March 2001****laying down detailed rules for the implementation of Council Decision 2000/596/EC as regards the eligibility of expenditure and reports on implementation in the context of actions co-financed by the European Refugee Fund***(notified under document number C(2001) 736)**(2001/275/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2000/596/EC of 28 September 2000 establishing a European Refugee Fund ⁽¹⁾, and in particular Article 14(2), Article 20(3) and Article 24(2) thereof,

Having consulted the Advisory Committee referred to in Article 21(1) of Decision 2000/596/EC,

Whereas:

- (1) In order to ensure the efficient implementation of the Fund in the Community, in accordance with the principles of sound management, a series of common rules should be adopted on the eligibility of expenditure from the Fund.
- (2) In order to ensure that the reports required under Article 20(2) of Decision 2000/596/EC serve the purpose of securing proper monitoring of the implementation of the Fund, standard models should be produced,

HAS ADOPTED THIS DECISION:

CHAPTER 1**Scope***Article 1*

This Decision shall apply to the co-financing of implementation programmes provided for in Article 8 of Decision 2000/596/EC, which are managed by the Member States.

Article 2

For the purposes of this Decision:

- (a) 'measure' shall mean one of the areas referred to in Article 4 of Decision 2000/596/EC;
- (b) 'action' shall mean the means whereby a Member State implements the measures referred to in point (a) to achieve the objective of the European Refugee Fund. An action may consist of several different projects;

- (c) 'project' shall mean the specific, practical means deployed to implement all or part of an action by the beneficiaries of subsidies. Each project will have a well-defined description, duration, budget, goals, staff assigned to it, and will be implemented by a named organisation, or a group of organisations;
- (d) 'beneficiaries of subsidies' shall mean the organisations (NGOs, federal, national, regional or local authorities, other non-profit organisations) responsible for implementing projects.

CHAPTER 2**Rules on eligibility***Article 3*

The rules set out in Annex I to this Decision shall be used to determine the eligibility of expenditure under the implementing programmes referred to in Article 8 of Decision 2000/596/EC.

The provisions of this Decision shall not prevent Member States from applying stricter national eligibility rules than those contained in this Decision.

CHAPTER 3**Reports on implementation***Article 4*

1. The summary report on implementation of the action in progress, referred to in Article 20(2) of Decision 2000/596/EC shall be presented using the model provided in Annex II.

2. The financial accounts and report on implementation of the action referred to in Article 20(3) of Decision 2000/596/EC shall be presented using the model provided in Annex III.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 20 March 2001.

For the Commission

António VITORINO

Member of the Commission

⁽¹⁾ OJ L 252, 6.10.2000, p. 12.

ANNEX I

ELIGIBILITY OF EXPENDITURE UNDER THE EUROPEAN REFUGEE FUND**I. GENERAL RULES (ELIGIBLE EXPENDITURE AT PROJECT LEVEL)****Rule No 1**

Costs must be directly linked to the objectives described in Article 1 of Decision 2000/596/EC.

Rule No 2

Costs must relate to the measures described in Article 4 of Decision 2000/596/EC.

Rule No 3

Costs must be necessary for carrying out the action described in the national programme as approved by the Commission.

Rule No 4

Costs must be foreseen in the project's forward budget.

Rule No 5

Costs must be reasonable and comply with the principles of sound financial management, in particular value for money and cost-effectiveness (e.g. staff costs related to project management and implementation must be proportionate to project size etc.).

Rule No 6

Expenditure incurred before the date of adoption of the Commission Decision approving the national implementation programme or after the expenditure deadline indicated in the same Decision may not be co-financed. By way of derogation:

- for 2000 expenditure actually paid between 1 January 2000 and the date of approval of the national programme may be eligible,
- for 2001 expenditure actually paid between 1 January 2001 and the date of approval of the national programme may be eligible.

Rule No 7

Costs must have actually been incurred, be recorded in the accounts or tax documents of the beneficiary of the subsidy, and be identifiable and controllable. As a rule, payments by financial beneficiaries shall be supported by receipted invoices. Where this cannot be done, payments shall be supported by accounting documents of equivalent probative value.

1. Expenditure related to Article 4(1)(a) and (b) of Decision 2000/596/EC must be incurred on the territory of the Member State. Expenditure related to paragraph 1(c) may be incurred on the territory of the Member State and in the country of origin.
2. For each project, supporting documents (receipted invoices, receipts, other proof of payment or accounting documents of equivalent probative value) shall be recorded, numbered and kept by the beneficiary, where possible in one specific location and, as a general rule, at the headquarters of the beneficiary, for five years after the end date of the project, in case they need to be verified. The Commission reserves the right to request, at any time, any invoices or supporting documents for expenditure relating to projects for verification. Where such invoices or supplementary documents cannot be produced by the beneficiary, the expenditure related to it will not be eligible for co-financing.

Rule No 8

'Receipts' for the purposes of this rule covers revenue received by a project during the period of its co-financing or during such longer period up to the closure of the assistance as may be fixed by the Member State, from sales, rentals, services, enrolment/fees or other equivalent receipts with the exception of contributions from the private sector to the co-financing of projects, which appear alongside public contributions in the financing tables of the relevant measure.

Receipts represent income, which reduces the amount of co-financing under the European Refugee Fund that is required for the project in question. Before the European Refugee Fund's participation is calculated and no later than at the time of the end date of the project, they are deducted from the project's eligible expenditure in their entirety or pro rata, depending on whether they were generated entirely or only in part by the co-financed project.

Both public and other co-financing must be recorded in the beneficiary's accounts or tax documents, and be identifiable and controllable. Any co-financing that is not recorded in the project's accounts or tax documents cannot normally be considered as co-financing.

II. ELIGIBLE DIRECT COSTS (AT PROJECT LEVEL)

Rule No 9: Staff costs

The cost of staff assigned to the project, corresponding to real salaries plus social security charges and other remuneration-related costs, shall be eligible. Staff costs may not exceed the salaries and other employment charges normally incurred by the beneficiary, nor exceed the most economical rates in the relevant market. However, levies, taxes or charges (in particular, direct taxes and social security contributions on wages) arising from actions co-financed by the European Refugee Fund constitute eligible costs only where they are actually and definitively borne by the beneficiary of the subsidy.

Staff costs for public officials are only eligible for activities that are not part of their normal routine and for tasks that are specifically linked to implementation of the project, on the following terms:

- (a) Civil servants or other public officials seconded by duly documented decision of the competent authority, entrusted with implementing a project.
- (b) Other staff employed solely for the purpose of implementing a project.

Rule No 10: Travel and subsistence costs for project staff

Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates should be based on cheapest airfare for journeys over 800 km (return trip), and rail for other journeys, save where the geographical destination justifies travelling by air. For daily subsistence, where an organisation has its own day rates (per diems) they should be applied within ceilings established by the Member State according to the national legislation and practice. Per diems are understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries. Where a private car is used, reimbursement is normally made on the basis of the cost for public transport.

Rule No 11: Travel and subsistence costs for project participants

Travel and subsistence costs for project participants (target groups under Article 3 of Decision 2000/596/EC) are eligible, provided that all the conditions set out in Part I above are met.

Rule No 12: Purchase of land

The cost of purchase of land not built on shall be eligible for co-financing subject to the following three conditions without prejudice to the application of stricter national rules:

- (a) there shall be a direct link between the land purchase and the objectives of the co-financed project;
- (b) the land purchase may not represent more than 10 % of the total eligible expenditure of the project, unless a higher percentage is fixed in the assistance approved by the Commission;
- (c) a certificate shall be obtained from an independent qualified valuer or duly authorised official body confirming that the purchase price does not exceed the market value.

Rule No 13: Purchase of real estate, or construction of real estate

Purchase of real estate, i.e. buildings already constructed and the land on which they are built, or construction of buildings, is eligible for co-financing where there is a clear link between the purchase and the objectives of the project concerned, under the conditions set out below, and without prejudice to the application of stricter national rules:

- (a) a certificate shall be obtained from an independent qualified valuer or duly authorised official body establishing that the price does not exceed the market value, and either attesting that the building is in conformity with national regulations or specifying the points which are not in conformity where their rectification by the final beneficiary is foreseen under the action;
- (b) the building shall not have received, within the previous 10 years, a national or Community grant which would give rise to a duplication of aid in the event of co-financing of the purchase by the European Refugee Fund;
- (c) the real estate is to be used for the purpose stated in the action for a period of at least five years after the end date of the project unless the Commission specifically authorises otherwise;
- (d) the building may not be used for any purpose other than the implementation of the action.

Rule No 14: Purchase of new equipment

In general the preferred option for equipment (e.g. PCs, furniture, cars, etc.) is leasing. If leasing is not possible because of the short duration of the project or the rapid depreciation of value (e.g. for PCs), purchase costs may be eligible. The purchase costs for new equipment shall be eligible provided that these correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the beneficiary. Only the proportion of depreciation of the item corresponding to the duration of the project may be taken into account. For one-year projects the depreciation rate is 33,3 %. By way of derogation, if the nature and/or the use of the item justify it, purchase and outright depreciation of some equipment may be authorised, provided that the equipment is used for the same target group (Article 3 of Decision 2000/596/EC) for at least three years after the end date of the project.

Rule No 15: Leasing

Expenditure incurred in relation to leasing operations is eligible for co-financing under the European Refugee Fund subject to the rules set out in points A and B.

A. AID VIA LESSOR

- A.1. The lessor is the direct recipient of the Community co-financing, which is used for the reduction of the lease rental payments made by the lessee in respect of assets covered by the leasing contract.
- A.2. Leasing contracts for which Community aid is paid shall include an option to purchase or provide for a minimum leasing period equal to that of the useful life of the asset to which the contract relates.
- A.3. Where a leasing contract is terminated before expiry of the minimum leasing period without the prior approval of the competent authorities, the lessor shall undertake to repay to the national authorities concerned (for credit to the European Refugee Fund) that part of the Community aid corresponding to the remainder of the leasing period.
- A.4. The purchase of the asset by the lessor, supported by a receipted invoice or an accounting document of equal probative value, constitutes the expenditure eligible for co-financing. The maximum amount eligible for Community co-financing shall not exceed the market value of the asset leased.
- A.5. Costs connected with the leasing contract (notably tax, lessor's margin, interest refinancing costs, overheads, insurance charges), other than the expenditure referred to in point A.4, are not eligible expenditure.
- A.6. Community aid paid to the lessor shall be used in its entirety for the benefit of the lessee by means of a uniform reduction in all the leasing rentals for the duration of the leasing period.
- A.7. The lessor shall demonstrate that the benefit of the Community aid will be transferred fully to the lessee by establishing a breakdown of the rental payments or by an alternative method giving equivalent assurance.
- A.8. The costs referred to in point A.5, the use of any fiscal benefits arising from the leasing operation, and other conditions of the contract shall be equivalent to those applicable in the absence of any Community financial intervention.

B. AID TO LESSEE

- B.1. The lessee is the direct recipient of the Community co-financing.
- B.2. The leasing rentals paid to the lessor by the lessee, supported by a receipted invoice or an accounting document of equivalent probative value, constitute the expenditure eligible for co-financing.
- B.3. In the case of leasing contracts which include an option to purchase or which provide for a minimum leasing period equal to the useful life of the asset to which the contract relates, the maximum amount eligible for Community co-financing shall not exceed the market value of the asset leased. Other costs connected with the leasing contract (tax, lessor's margin, interest refinancing costs, overheads, insurance charges, etc.) are not eligible expenditure.
- B.4. The Community aid in respect of leasing contracts referred to under point B.3 shall be paid to the lessee in one or more tranches in respect of leasing rentals effectively paid. Where the term of the leasing contract exceeds the final date for taking account of payments under the Community assistance, only expenditure in relation to leasing rentals falling due and paid by the lessee up to the final date for payment under the assistance may be considered eligible.

- B.5. In the case of leasing contracts which do not contain an option to purchase and whose duration is less than the period of the useful life of the asset to which the leasing contract relates, the leasing rentals are eligible for co-financing by the Community in proportion to the period of the eligible project. However, the lessee must be able to demonstrate that leasing was the most cost-effective method for obtaining the use of the equipment. Where the costs would have been lower if an alternative method (for example hiring of the equipment) had been used, the additional costs shall be deducted from the eligible expenditure.

Rule No 16: Purchase of second-hand equipment

Purchase of second-hand equipment may be regarded as eligible expenditure under the following four conditions without prejudice to the application of stricter national rules:

- (a) the seller of the equipment shall provide a declaration stating its origin, and confirm that at no point during the previous seven years has it been purchased with the aid of national or Community grants;
- (b) the price of the equipment shall not exceed its market value and shall be less than the cost of similar new equipment;
- (c) the equipment shall have the technical characteristics necessary for the project and comply with applicable norms and standards;
- (d) the equipment is used for the same target group (Article 3 of Decision 2000/596/EC) for at least two years after the end date of the project.

Rule No 17: Costs of consumables and supplies

Costs of consumables and supplies are eligible for co-financing, where the conditions set out in Part I are satisfied. Consumables include any material or assistance provided to project participants (Article 3 of Decision 2000/596/EC), for example food, clothing, medical assistance, material to reconstruct houses, etc. Supplies include office supplies such as stationery, but also food supplies for project participants under Article 3 of Decision 2000/596/EC.

Rule No 18: Expenditure on subcontracting

Without prejudice to the application of stricter national rules, expenditure relating to the following subcontracts is ineligible for co-financing by the European Refugee Fund:

- (a) subcontracting which adds to the cost of execution of the project without adding proportionate value to it;
- (b) subcontracts with intermediaries or consultants in which the payment is defined as a percentage of the total cost of the project unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided. For all subcontracts, subcontractors shall undertake to provide the audit and control bodies with all necessary information relating to the subcontracted activities.

Rule No 19: Costs deriving directly from the requirements linked to EU co-financing

Costs relating to publicity (dissemination of information, specific evaluation of the project, translation, reproduction, etc.) given to the project and EU co-financing are eligible.

Rule No 20: Contingency reserve

A 'contingency reserve' of no more than 5 % of eligible direct costs may be charged to the project, provided the contingency reserve is included in the project's forward budget.

Rule No 21: Overheads

A fixed percentage of overheads up to a maximum of 7 % of the total amount of eligible direct costs shall be eligible as indirect costs, provided this figure is included in the project's forward budget. Indirect costs shall be eligible provided that they do not include costs assigned to another heading of the budget for the project, that they cannot be charged direct and that they are not financed from other sources. Indirect costs shall not be eligible where the grant agreement concerns the financing of a project conducted by a body which is already receiving an operating grant from the Commission and/or a national authority.

Rule No 22: Financial charges

Debit interest, charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses are not eligible for co-financing.

Rule No 23: Bank charges on accounts

Where co-financing by the European Refugee Fund requires the opening of a separate account or accounts for implementing a project, the bank charges for opening and administering the accounts are eligible.

Rule No 24: Legal fees for advice, notary fees, the costs of technical or financial expertise and accountancy or audit costs

These costs are eligible if they are directly linked to the project, and are necessary for its preparation or implementation or, in the case of accounting or audit costs, if they relate to requirements by the responsible authority.

Rule No 25: Costs of guarantees provided by a bank or other financial institution

These costs are eligible to the extent that the guarantees are required by national or Community legislation or in the Commission Decision approving the co-financing.

Rule No 26: VAT and other taxes and charges

- (a) VAT does not constitute eligible expenditure except where it is genuinely and definitively borne by the final beneficiary, or individual recipient within the aid schemes pursuant to Article 87 of the Treaty and in the case of aid granted by the bodies designated by the Member States. VAT which is recoverable, by whatever means, may not be considered eligible, even if it is not actually recovered by the final beneficiary or individual recipient.
- (b) Where the final beneficiary or individual recipient is subject to a flat-rate scheme under Title XIV of the sixth Council Directive 77/388/EEC on VAT ⁽¹⁾, VAT paid is considered recoverable for the purposes of point (a).
- (c) In no case may Community co-financing exceed total eligible expenditure excluding VAT.

Rule No 27: Contributions in kind

In kind contributions are eligible expenditure provided that:

- (a) they consist in the provision of land or real estate, equipment or materials, research or professional activity, or unpaid voluntary work;
- (b) their value can be independently assessed and audited;
- (c) in the case of the provision of land or real estate, the value is certified by an independent qualified valuer or duly authorised official body;
- (d) in the case of unpaid voluntary work, the value of that work is determined taking into account the amount of time spent and the normal hourly and daily rate for the work carried out;
- (e) the provisions of Rules 12, 13 and 16 are complied with where applicable.

However, the contribution of the Fund to the financing of the project may not exceed the total eligible expenditure at the end of the project, excluding contributions in kind.

III. TECHNICAL ASSISTANCE

1. A sum not exceeding 5 % of a Member State's total allocation may be set aside for technical and administrative assistance in the preparation, monitoring and evaluation of the action under its responsibility.

The following costs shall be eligible for co-financing up to the 5 % ceiling:

- (a) costs linked to preparation, selection, evaluation, and follow-up of the action co-financed by the European Refugee Fund. This may include leasing or purchase of computerised systems the need for which is duly justified by the responsible authority and proportional to the size of the programme. The equipment leased or purchased may be used for the implementation of the programme only. Eligibility rules on leasing apply;
- (b) costs linked to audits and on-the-spot controls and checks of the projects;
- (c) costs linked to the visibility of European Refugee Fund co-financing.

⁽¹⁾ OJ L 145, 13.6.1977, p. 1.

Expenditure linked to remuneration, including social security contributions, are eligible only in the following cases:

- permanent officials, temporarily seconded by formal decision of the responsible authority, entrusted with performing the tasks listed in points (a) and (b),
 - temporary agents or private sector staff employed solely for the purpose of performing the tasks listed in points (a) and (b).
2. Costs linked to the independent evaluation referred to in Article 20 of Decision 2000/596/EC are eligible. These costs are not subject to the conditions set out in point 1 above. Expenditure on the salaries of civil servants or other public officials in carrying out such actions is not eligible.

IV. INELIGIBLE EXPENDITURE

NB: This list is not exhaustive

1. *Fines, financial penalties, and litigation costs:* these costs are not eligible.
 2. *Entertainment expenses and social costs* not directly linked with the measures set out in Article 4, and the specific project, are not eligible. In principle costs for food and drink for project staff are not eligible for co-financing. Where project staff are obliged to travel, their subsistence costs shall be covered by per diems, in accordance with Rule No 10. Meals provided to final project beneficiaries may be eligible for co-financing provided that all the rules under Part I are applied.
-

ANNEX II

MODEL SUMMARY REPORT

(Article 20(2) of Decision 2000/596/EC)

To be sent to:

European Commission
Directorate-General for Justice and Home Affairs
Unit A/2 European Refugee Fund
LX46 6/050
200 rue de la Loi/Wetstraat
B-1049 Brussels

Member State:

programme year:

Responsible authority: (name of contact person, department or organisation, address, fax, telephone, e-mail):

Due date: 1 October of each year

A. PROGRAMME ADMINISTRATION AND MANAGEMENT

1. Description of programme management structures, financial circuits, methodology and criteria for project selection, monitoring system (if identical to information given in request for co-financing: simply refer to request for co-financing):
2. Project selection: steps taken and results obtained (e.g. date of publication of call for proposals, number of requesters, number of projects selected, average cost of selected projects). Description of technical assistance activities undertaken in implementing the programme:
3. Information and publicity: activities undertaken. Detailed description of how visibility was afforded to Community co-financing. All project documentation and publications must mention EU co-financing, 'This project is co-financed by the European Refugee Fund':

B. PROGRAMME IMPLEMENTATION

1. Timetable

- Start date of implementation of national programme:
- end date of national programme (final date for execution of expenditure as set out in co-financing decision):

2. Financial aspects

a) Financial report table (specify date — no earlier than one month before submission of the summary report)

(in EUR)

	Programmed	Commitments	%	Payments	%
	1	2	3 = 2/1	4	5 = 4/1
Measure A					
Action 1					
Action 2					
Action 3					
Total Measure A					
Measure B					
Action 1					
Action 2					
Action 3					
Total Measure B					
Measure C					
Action 1					
Action 2					
Action 3					
Total Measure C					
Technical assistance					
Action 1					
Action 2					
Action 3					
Total technical assistance					
Grand total					

b) Payments received from the Commission with corresponding dates:

c) Contribution from other Community sources, where appropriate:

3. Implementation of programme measures

- (a) Principal objectives of selected projects by measure (please use the appropriate indicators as described in the request for co-financing; give examples of selected projects):

- (b) Quantification of results expected (please update the quantification of the indicators by measure contained in the request for co-financing):

- (c) Problems encountered in implementing the national programme:

- (d) Any other remarks on implementation:

4. Internal evaluation

Analysis by the authority responsible for implementing the programme. Results expected from achievement of the programme objectives. Improvements and/or changes suggested for implementation of the programme.

ANNEX III

MODEL FINAL REPORT**(Article 20(3) of Decision 2000/596/EC)**

To be sent to:

European Commission
Directorate-General for Justice and Home Affairs
Unit A/2 European Refugee Fund
LX 46 6/050
Rue de la Loi/Wetstraat 200
B-1049 Brussels

Member State:

programme year:

Responsible authority: (name and contact person, department or organisation, address, fax, telephone, e-mail):

Due date: within six months of end date for execution of expenditure

A. OPERATIONAL CONTEXT

1. Description of any significant developments in the situation in the Member State, as compared to the situation described in the request for co-financing:
2. Consequences of the above developments on the implementation of the programme:
3. Measure undertaken to ensure coherence and complementary with other related policies at national or European level (including competition, public procurement, equal opportunities and environment policies):

B. PROGRAMME ADMINISTRATION AND MANAGEMENT

1. Description of programme management structures, financial circuits, methodology and criteria for project selection, monitoring and control system (if identical to information given in request for co-financing: simply refer to request for co-financing):
2. Details of any modifications to programme management and monitoring systems:

3. Description of technical assistance activities undertaken in implementing the programme: results obtained:
4. Information and publicity: activities undertaken. Detailed description of how visibility was afforded to Community co-financing. All project documentation and publications shall mention EU co-financing, 'This project is co-financed by the European Refugee Fund'. (Attach a copy of all project-related publications, press articles, etc.):

C. PROGRAMME IMPLEMENTATION

1. Timetable

- start date of implementation of national programme:
- end date of national programme (final date for execution of expenditure as set out in co-financing decision):

2. Financial aspects

(a) Financial report

(in EUR)					
	Programmed	Commitments	%	Payments	%
	1	2	3 = 2/1	4	5 = 4/1
Measure A					
Action 1					
Action 2					
Action 3					
Total Measure A					
Measure B					
Action 1					
Action 2					
Action 3					
Total Measure B					
Measure C					
Action 1					
Action 2					
Action 3					
Total Measure C					
Technical assistance					
Action 1					
Action 2					
Action 3					
Total technical assistance					
Grand total					

(b) Payments received from the Commission with corresponding dates:

(c) Contribution from other Community sources, where appropriate:

3. Implementation of programme measures

(a) Description of means used in practical and concrete terms to implement the actions foreseen in the national programme:

Example:

Measure	Action as described in national implementation programme	Implementation
A — Reception	Action 1 — Create reception infrastructure for 1 000 persons	— creation of a reception centre for 450 persons located at . . . — increased capacity to 500 persons of existing centres located at . . .

(b) Outputs and impacts achieved (*qualitative and quantitative description using relevant indicators as set out in the request for co-financing*), assessment of effectiveness (*compared to forecasts*) and value for money:

(c) Any other remarks on implementation

4. If applicable, description of any transnational activities and/or impact of the programme:

5. Detailed description of problems encountered in implementation of the national programme:

D. EVALUATION

(A copy of the independent evaluation should be attached to this final report)

1. General description of relevant programme evaluation undertaken:

2. Synthesis of results:

3. Proposals and recommendations resulting from evaluations, including any reorientation of the programme:

E. CONTROL ACTIVITY

1. Details of any modifications to the control system:

2. Controls undertaken by the competent authorities in the Member State:

3. Results of these activities, irregularities detected and communicated, measures taken:
4. Appropriate action taken after comments resulting from control missions from the European Union (Court of Auditors, European Commission).

ANNEXES TO THE FINAL REPORT

- A. List of projects approved by measure
 - B. Summary description of individual projects half a page each plus summary financial indicators, budget committed per project in tabular form, final expenditure per project
 - C. Independent evaluation
-

COMMISSION DECISION

of 4 April 2001

amending Decision 93/402/EEC concerning animal health conditions and veterinary certification for imports of fresh meat from South American countries to take account of the animal health situation in Argentina

(notified under document number C(2001) 1040)

(Text with EEA relevance)

(2001/276/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

the border areas and part of the rearing and fattening areas of central Argentina.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽¹⁾, as last amended by Directive 97/79/EC ⁽²⁾, in particular Articles 3 and 14 thereof,

Whereas:

- (1) The animal health conditions and veterinary certification for imports of fresh meat from Colombia, Paraguay, Uruguay, Brazil, Chile and Argentina are laid down by Commission Decision 93/402/EEC ⁽³⁾, as last amended by Decision 2000/755/EC ⁽⁴⁾.
- (2) Imports of fresh meat must take into account the different epidemiological situations in the countries concerned, and indeed in the different parts of their territories.
- (3) The responsible veterinary authorities of the concerned countries must confirm that their countries or regions have for at least 12 months been free from rinderpest, and foot-and-mouth disease. Furthermore, the responsible authorities of the concerned countries must undertake to notify the Commission and the Member States within 24 hours, by fax, telex or telegram of the confirmation of the occurrence of any of the abovementioned diseases or an alteration in the vaccination policy against them.
- (4) On 2 March 2001 the authorities of Argentina informed the Commission that a new regionalisation and vaccination policy against foot-and-mouth disease was being introduced as a result of the incursion of illegally introduced animals from neighbouring countries found to be positive for foot-and-mouth disease in order to protect

- (5) The authorities of Argentina have provided information that, *inter alia*, in the northern border areas (buffer area) and a separate central area (restricted area) vaccination of cattle against foot-and-mouth disease is being reintroduced after a cessation of vaccination since 1999. In addition an outbreak of foot-and-mouth disease was notified to the OIE on 13 March 2001. Therefore it appears that the status of the country should be reviewed in the light of these changes as the existing requirements were based on a different disease and animal movement control strategy.

- (6) Moreover information from Argentina indicates that it has suspended exports of meat to Canada, Chile and the United States of America but not to the European Community.

- (7) It is therefore necessary to suspend the authorisation of importation into the Community of all categories of fresh meat from those species susceptible to foot-and-mouth disease, at least until a Commission inspection mission has been carried out to examine the new situation on the ground or the situation has been adequately clarified.

- (8) It is necessary to clarify the tables listing the countries following experience gained in the implementation of this Decision by the authorities.

- (9) Therefore importation into the Community of fresh meat from bovines and ovines should no longer be authorised.

- (10) Decision 93/402/EEC must be amended accordingly.

- (11) It will be necessary to review this Decision in the light of the results of the next Commission veterinary inspection mission and/or any change in the health situation in Argentina notified to the Commission in the meantime.

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

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 24, 30.1.1998, p. 31.

⁽³⁾ OJ L 179, 22.7.1993, p. 11.

⁽⁴⁾ OJ L 303, 2.12.2000, p. 36.

HAS ADOPTED THIS DECISION:

Article 1

Decision 93/402/EEC is amended as follows:

1. Annex I is replaced by Annex A to this Decision;
2. Annex II is replaced by Annex B to this Decision.

Article 2

This Decision shall apply until 15 April 2001.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 4 April 2001.

For the Commission

David BYRNE

Member of the Commission

ANNEX A

'ANNEX I

DESCRIPTION OF TERRITORIES OF SOUTH AMERICA ESTABLISHED FOR ANIMAL HEALTH CERTIFICATION PURPOSES

Country	Territory		Description of territory
	Code	Version	
Argentina	AR	01/2001	Whole country
Brazil	BR	01/93	Whole country
	BR-1	01/96	States of: Rio Grande do Sul, Parana, Minas Gerais, (except regional delegations of Oliveira, Passos, São Gonçalo de Sapucaí, Setelagoas and Bambuí), São Paulo, Espírito Santo, Mato Grosso do Sul (except for the municipalities of Sonora, Aquidauana, Bodoquena, Bonito, Caracol, Coxim, Jardim, Ladario, Miranda, Pedro Gomes, Porto Murtinho, Rio Negro, Rio Verde of Mato Grosso and Corumbá), Santa Catarina, Goiás and the regional units of Cuiabá (except for the municipalities of San Antonio de Leverger, Nossa Senhora do Livramento, Pocone and Barão de Melgaço), Cáceres (except for the municipality of Cáceres) Lucas do Rio Verde, Rondonópolis (except for the municipality of Itiquira), Barra do Garças and Barra do Bugres in Mato Grosso
Chile	CL	01/93	Whole country
Colombia	CO	01/93	Whole country
	CO-1	01/93	The zone included within the following borderlines: from the point where the Murri River flows into the Atrato River, downstream along the Atrato River to where it flows into the Atlantic Ocean, from this point to the Panamanian border following the Atlantic coastline to Cabo Tiburón; from this point to the Pacific Ocean following the Colombian-Panamanian border: from this point to the mouth of the Valle River along the Pacific Coast and from this point along a straight line to the point where the Murri River flows into the Atrato River
	CO-2	01/93	The municipalities of Arboletas, Necoclí, San Pedro de Urabá, Turbo, Apartado, Chigorodo, Mutatá, Dabeiba, Uramita, Murindo, Riosucio (right bank of the Atrato river) and Frontino
	CO-3	01/93	The zone included within the following borderlines: from the mouth of the Sinu River on the Atlantic Ocean, upstream along the Sinu River to its headwaters of Alto Paramillo, from this point to Puerto Rey on the Atlantic Ocean, following the borderline between the Department of Antioquia and Córdoba, and from this point to the mouth of the Sinu River along the Atlantic Coast
Paraguay	PY	01/93	Whole country
Uruguay	UY	01/93	Whole country
	UY-1	01/00	Whole country excluding the department of Artigas'

ANNEX B

'ANNEX II

(Version No 02/2001)

ANIMAL HEALTH GUARANTEES REQUESTED ON CERTIFICATION ⁽¹⁾

Country	Territory	Fresh meat including bone but excluding offal				Deboned fresh meat excluding offal				Offal						
		Species				Species				of bovine animals				of ovines		
		Bovine	Ovine/ caprine	Porcine	Soliped	Bovine	Ovine/ caprine	Porcine	Soliped	HC (*)	MP (*)				PF (*)	PF (*)
											1	2	3	4		
Argentina	AR	—	—	—	D	—	—	—	D	—	—	—	—	—	—	—
Brazil	BR	—	—	—	D	—	—	—	D	—	—	—	—	—	—	—
	BR-1	—	—	—	D	A	—	—	D	—	—	—	—	—	F	—
Chile	CL	B	B	H	D	A	C	H	D	B	B	B	B	B	B	B
Colombia	CO	—	—	—	D	—	—	—	D	—	—	—	—	—	—	—
	CO-1	—	—	—	D	A	—	—	D	—	—	—	—	—	—	—
	CO-2	—	—	—	D	—	—	—	D	—	—	—	—	—	—	—
	CO-3	—	—	—	D	A	—	—	D	—	—	—	—	—	—	—
Paraguay	PY	—	—	—	D	A	—	—	D	—	—	—	—	—	F	—
Uruguay	UY	—	—	—	D	A	C	—	D	—		—	E	E	F	G
	UY-1	B	B	—	D	A	C	—	D	B	B	B	B	B	B	B

⁽¹⁾ The letters (A, B, C, D, E, F, G and H) appearing on the table, are referring to the models of animal health guarantees as described in Annex III Part 2 of Decision 93/402/EEC, to be applied for each product and origin in accordance with Article 2 of this Decision.

(*) HC Human consumption.

MP Destined for heat-treated meat products industry:

1 = hearts

2 = livers

3 = masseter muscles

4 = tongues.

PF: Destined for the pet food industry.'