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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 925/2001
of 11 May 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 12 May 2001.

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

Done at Brussels, 11 May 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 11 May 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	87,7
	064	92,7
	999	90,2
0707 00 05	052	80,8
	628	150,8
	999	115,8
0709 10 00	052	205,7
	999	205,7
0709 90 70	052	82,8
	999	82,8
0805 10 10, 0805 10 30, 0805 10 50	052	56,4
	204	51,6
	212	58,3
	220	62,6
	600	61,3
	624	52,1
	999	57,1
	052	57,2
0805 30 10	999	57,2
0808 10 20, 0808 10 50, 0808 10 90	388	91,8
	400	84,0
	404	103,2
	508	80,2
	512	83,6
	524	72,4
	528	85,5
	720	95,2
	804	96,2
	999	88,0

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

COMMISSION REGULATION (EC) No 926/2001**of 11 May 2001****concerning tenders submitted in response to the invitation to tender for the export to certain third countries of wholly milled round grain A rice issued in Regulation (EC) No 2281/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued under Commission Regulation (EC) No 2281/2000 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Article 13 of Regulation (EC) No 3072/95 a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 4 to 10 May 2001 in response to the invitation to tender for the export refund on wholly milled round grain A rice to certain third countries issued in Regulation (EC) No 2281/2000.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 260, 14.10.2000, p. 7.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 927/2001**of 11 May 2001****concerning tenders submitted in response to the invitation to tender for the export to certain third European countries of wholly milled round, medium and long grain A rice issued in Regulation (EC) No 2282/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued under Commission Regulation (EC) No 2282/2000 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Article 13 of Regulation (EC) No 3072/95 a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 4 to 10 May 2001 in response to the invitation to tender for the export refund on wholly milled round, medium and long grain A rice to certain third European countries issued in Regulation (EC) No 2282/2000.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 260, 14.10.2000, p. 10.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 928/2001**of 11 May 2001****concerning tenders submitted in response to the invitation to tender for the export to certain third countries of wholly milled medium and long grain A rice issued in Regulation (EC) No 2283/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued under Commission Regulation (EC) No 2283/2000 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Article 13 of Regulation (EC) No 3072/95 a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 4 to 10 May 2001 in response to the invitation to tender for the export refund on wholly milled medium and long grain A rice to certain third European countries issued in Regulation (EC) No 2283/2000.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 267, 15.10.1999, p. 13.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 929/2001**of 11 May 2001****fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2284/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular Article 13 (3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2284/2000 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2284/2000 is hereby fixed on the basis of the tenders submitted from 4 to 10 May 2001 at 330,00 EUR/t.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 260, 14.10.2000, p. 16.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 930/2001**of 11 May 2001****opening a standing invitation to tender for the export of common wheat held by the French intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 1630/2000 ⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies.
- (2) Given the current market situation, a standing invitation to tender should be opened for the export of 196 000 tonnes of common wheat held by the French intervention agency.
- (3) Special procedures must be laid down to ensure that the operations and their monitoring are properly effected. To that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.
- (4) Where removal of the common wheat is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Subject to the provisions of this Regulation the French intervention agency issues a standing invitation to tender for the export of common wheat held by it in accordance with Regulation (EEC) No 2131/93.

Article 2

1. The invitation to tender shall cover a maximum of 196 000 tonnes of common wheat for export to third countries except Poland and ACP States listed in Annex V.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 187, 26.7.2000, p. 24.

2. The regions in which the 196 000 tonnes of common wheat are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.
2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.
3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.
2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted pursuant to Article 44 of Commission Regulation (EEC) No 3719/88 ⁽⁵⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 17 May 2001.
2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.
3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 27 September 2001.
4. Tenders shall be lodged with the French intervention agency.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

The analysis results shall be forwarded to the Commission in the event of a dispute.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:
 - two kilograms per hectolitre as regards specific weight, which must not, however, be less than 72 kg/hl,
 - one percentage point as regards moisture content,
 - 20 percentage points for the Hagberg falling index,
 - half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92 ⁽¹⁾, and
 - half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:
 - accept the lot as established, or
 - refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention common wheat of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;
- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with

Annex II; however, he may request the intervention agency to supply him with another lot of intervention common wheat of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

2. However, if the common wheat is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

By derogation from Article 12 of Commission Regulation (EEC) No 3002/92 ⁽²⁾, the documents relating to the sale of wheat in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

- Trigo blando de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 930/2001
- Blød hvede fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 930/2001
- Interventions-Weichweizen ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 930/2001
- Μαλακός σίτος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 930/2001
- Intervention common wheat without application of refund or tax, Regulation (EC) No 930/2001
- Blé tendre d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 930/2001

⁽¹⁾ OJ L 74, 20.3.1992, p. 18.

⁽²⁾ OJ L 301, 17.10.1992, p. 17.

- Frumento tenero d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 930/2001
- Zachte tarwe uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 930/2001
- Trigo mole de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 930/2001
- Interventiovehnää, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 930/2001
- Interventionsvete utan tillämpning av bidrag eller avgift, förordning (EG) nr 930/2001.

Article 8

1. The security lodgement pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.
2. The obligation to export to the third countries shall be covered by a security amounting to EUR 75 per tonne of which EUR 50 per tonne shall be lodged when the export licence is issued, with the balance of EUR 25 per tonne being lodged before removal of the cereals.

Article 15(2) of Regulation (EEC) No 3002/92 notwithstanding:

- the amount of EUR 25 per tonne must be released within 20 working days of the date on which the successful tenderer supplies proof that the common wheat removed has left the customs territory of the Community,

- the amount of EUR 50 per tonne must be released within 15 working days of the date on which the successful tenderer supplies the proof referred to in Article 17(3) of Regulation (EEC) No 2131/93.

3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the time limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the French intervention agency shall notify the Commission of tenders received. Such notification shall be made using the model set out in Annex III and the telex or fax numbers set out in Annex IV.

Article 10

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

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

(tonnes)	
Place of storage	Quantity
Amiens	28 000
Châlons	17 000
Lille	12 000
Nantes	33 000
Orléans	51 000
Rouen	55 000

ANNEX II

**Communication of refusal of lots under the standing invitation to tender for the export of common wheat held
by the French intervention agency**

(Article 6(1) of Regulation (EC) No 930/2001)

- Name of successful tenderer:
- Date of award of contract:
- Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

ANNEX III

Standing invitation to tender for the export of common wheat held by the French intervention agency
(Regulation (EC) No 930/2001)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (EUR/tonne) ⁽¹⁾	Price increases (+) or reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases or reductions relating to the lot to which the tender refers.

ANNEX IV

The only numbers to use to call Brussels are (DG AGRI C-1):

- fax: (32-2) 296 49 56,
(32-2) 295 25 15,
- telex: 22037 AGREC B,
22070 AGREC B (Greek characters).

ANNEX V

Groups of ACP States signatories to the Lomé Convention

Group I	Group II	Group III
Mauritania Mali Niger Senegal Gambia Guinea-Bissau Guinea Cape Verde Sierra Leone Liberia Côte d'Ivoire Ghana Togo Nigeria	Chad Central African Republic Benin Cameroon Equatorial Guinea São Tomé and Príncipe Gabon Congo Democratic Republic of Congo Rwanda Burundi Burkina Faso	Seychelles Comoros Madagascar Mauritius Angola Zambia Malawi Mozambique Namibia Botswana Zimbabwe Lesotho Swaziland Djibouti Ethiopia Eritrea

COMMISSION REGULATION (EC) No 931/2001**of 11 May 2001****on the issuing of a standing invitation to tender for the sale of common wheat held by the German intervention agency for export to certain ACP countries**

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⁾.

Whereas:

(1) Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 1630/2000⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies.

(2) With a view to supplying the markets of the ACP countries, favoured partners of the Community, significant quantities of common wheat are required. These markets are usually supplied on the basis of regular contracts to ensure stable prices for the ACP countries over a certain period. It is therefore necessary to issue a specific invitation to tender to ensure that users in these countries have access to common wheat under conditions appropriate to the highly competitive situation on the world market.

(3) The German intervention agency holds stocks of common wheat. Part of the wheat coming from the intervention stocks held by the aforementioned agency should therefore be resold to the ACP countries to meet their quantitative and qualitative needs. The common wheat successfully tendered for must be exported to the countries of destination by 30 September 2001 at the latest.

(4) The specific nature of the operation and the accounting position of the common wheat in question require greater flexibility in the mechanisms and obligations governing the resale of intervention stocks and also require exclusion of any refund, tax or monthly increase. Special procedures must be laid down to ensure that the operations and their monitoring are properly effected. To that end provision should be made for a security lodgment scheme which ensures that the aims are met while avoiding excessive costs for the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.

(5) In addition to the conditions laid down in Article 32 of Commission Regulation (EC) No 1291/2000⁽⁵⁾, provision should be made for the release for consumption in the ACP State(s) laid down in the Regulation.

(6) Where removal of the wheat is delayed by more than five days, or the release of one of the securities required is delayed, for reasons imputable to the intervention agency the Member State concerned will have to pay compensation.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A standing invitation to tender is hereby issued for the export of 170 950 tonnes of common wheat held by the German intervention agency.

2. The common wheat must be exported to an ACP State or to several States within one of the groups of ACP States listed in Annex I.

3. The regions in which the 170 950 tonnes of German common wheat are stored are listed in Annex II.

4. The intervention agency concerned shall prepare a notice of invitation to tender indicating for each lot or, where appropriate, each part lot:

- the location,
- and at least the following features:
 - specific weight,
 - moisture content,
 - Hagberg falling number,
 - impurity contents and sprouted grains,
 - protein content.

5. It shall publish the notice of invitation to tender at least two days before the date set for the first partial invitation to tender.

Article 2

Subject to the provisions of this Regulation, the sales of common wheat referred to in Article 1 shall take place in accordance with the procedure and conditions laid down by Regulation (EEC) No 2131/93.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 15.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 187, 26.7.2000, p. 24.

⁽⁵⁾ OJ L 152, 24.6.2000, p. 1.

Article 3

1. The time limit for submitting tenders for the first partial invitation to tender shall be 9 a.m. (Brussels time) on Thursday 17 May 2001.

2. The time limit for submitting tenders for the second partial invitation to tender shall be 9 a.m. (Brussels time) on the following Thursday.

The time limit for the last partial invitation to tender shall be 27 September 2001.

3. Tenders must be submitted to the German intervention agency.

Article 4

1. Tenders shall only be admissible if:

- the tenderer provides written proof from an official body in the ACP country of destination or a company having its overseas subsidiary in the said country, that he has concluded for the quantity in question a commercial supply contract for common wheat for export to an ACP State or to several States within one of the groups of ACP States listed in Annex I. That contract may cover only those deliveries to be made during the period May to September 2001 for quantities traditionally supplied; such proof shall be lodged with the competent authorities at least two working days before the date of the partial invitation to tender against which the tender is to be submitted,
- they are accompanied by an application for an export licence for the destination in question.

The proof provided for in the first indent shall also indicate the quality provided for in the contract, the time limit for delivery and the price terms.

The Member State shall send the Commission a copy of the said proof forthwith, for information.

2. Tenders may not exceed the quantity laid down in the commercial contract submitted.

Article 5

1. No export refund or export tax or monthly increase shall be applied for exports carried out pursuant to this Regulation.

2. The validity of the export licences issued in accordance with this Regulation shall expire on 30 September 2001.

3. The licence obliges the operator to export to the ACP State or States for which the licence application was submitted. However, up to a limit of 30 % of the quantity for which the

licence was issued. The operator may effect his contract at another destination on condition that it belongs to the same group of countries listed in Annex I.

4. The export licences shall be issued as soon as the successful tenderers have been selected.

5. Article 9 of Regulation (EC) No 1291/2000 notwithstanding, the rights deriving from the licence referred to in this Article shall not be transferable.

Article 6

1. The intervention agency, the storer and the successful tenderer, if he so wishes, shall, by common agreement, either before or at the moment of removal from storage, as the successful tenderer chooses, take reference samples at the rate of at least one sample for every 500 tonnes, and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The Commission must be informed of the findings of the analyses in the event of a dispute.

Reference samples shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples were taken on removal from storage. If the final result of the sample analyses indicates a quality:

- (a) greater than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) greater than the minimum characteristics required for intervention but below the quality described in the notice of invitation to tender, with the difference remaining within a limit of up to:
 - 2 kg/hl for the specific weight, which must not, however, be less than 72 kg/hl,
 - one percentage point for the moisture content,
 - 20 percentage points for the Hagberg falling index,
 - one percentage point for the protein content,
 - half a percentage point for the impurities referred to in B.2 and B.4 of the Annex I to Commission Regulation (EC) No 824/2000⁽¹⁾, and
 - half a percentage point for the impurities referred to in point B.5 of the Annex I to Regulation (EC) No 824/2000 the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) greater than the minimum characteristics required for intervention but below the quality described in the notice of invitation to tender with the difference surpassing the limit referred to in point (b), the successful tenderer may:

⁽¹⁾ OJ L 100, 20.4.2000, p. 31.

- either accept the lot as established,
 - or refuse to take over the lot in question. The successful tenderer shall be released from all his obligations relating to the lot in question, including the securities, only once he has informed the Commission and the intervention agency forthwith, in accordance with Annex V; however, if he requests the intervention agency to supply him with another lot of intervention wheat of the quality laid down, and that without additional charges, the security shall not be released. The lot must be replaced within a maximum of three days from the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex V;
- (d) below the minimum characteristics required for intervention, the successful tenderer may not remove the lot in question. He shall be released from all his obligations relating to the lot in question, including the securities, only once he has informed the Commission and the intervention agency forthwith, in accordance with Annex V; however, he may request the intervention agency to supply him with another lot of intervention wheat of the quality laid down, without additional charges. In this case, the security shall not be released. The lot must be replaced within a maximum of three days from the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex V.
2. However, if the wheat is removed before the results of the analysis are known, all risks shall be borne by the successful tenderer from the time of removal of the lot, without prejudice to the forms of recourse the successful tenderer may have against the storer.
3. If, after successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for replacement, he shall be released from all his obligations, including the securities once he has informed the Commission and the intervention agency forthwith in accordance with Annex V.
4. The costs of the taking of samples and the analyses referred to in paragraph 1, except those where the final result of the analyses produces a quality inferior to the minimum characteristics required for intervention, shall be borne by the EAGGF up to a maximum of one analysis per 500 tonnes with the exception of the transsilage costs.

The cost of transsilage and of any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

The successful tenderer shall pay for the common wheat before removing it at the price indicated in the tender. The final date

for removal is 30 September 2001. The payment due for each of the lots to be removed shall be indivisible.

Article 8

1. The security lodged pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.
2. The obligation to export and import into one of the countries of destination listed in Annex I shall be covered by a security amounting to EUR 75 per tonne of which EUR 25 per tonne shall be lodged upon issue of the export licence, with the balance of EUR 50 being lodged before removal of the cereals.

Article 15(2) of Commission Regulation (EEC) No 3002/92 ⁽¹⁾ notwithstanding:

- the amount of EUR 25 per tonne must be released within 20 working days of the date on which the successful tenderer supplies proof that the wheat removed has left the customs territory of the Community,
- the amount of EUR 50 per tonne must be released within 15 working days of the date on which the successful tenderer supplies proof of entry for consumption into the ACP State or States referred to in Article 5(3). This proof shall be supplied in accordance with Articles 16 and 49 of Commission Regulation (EC) No 800/1999 ⁽²⁾, as last amended by Commission Regulation (EC) No 90/2001 ⁽³⁾.
- 3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015/10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

Article 9

Article 12 of Regulation (EEC) No 3002/92 notwithstanding, the documents relating to the sale of common wheat in accordance with this Regulation and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where appropriate, the T5 control copy must bear the words:

- Trigo blando de intervención sin aplicación de restitución ni gravamen, destinado a (nombre del Estado o de los Estados ACP), Reglamento (CE) n° 931/2001
- Blød hvede fra intervention uden restitutionsydelse eller -afgift bestemt for (navnet på det eller de pågældende AVS-lande), forordning (EF) nr. 931/2001

⁽¹⁾ OJ L 301, 17.10.1992, p. 17.

⁽²⁾ OJ L 102, 17.4.1999, p. 11.

⁽³⁾ OJ L 14, 18.1.2001, p. 22.

- Interventions-Weichweizen ohne Anwendung von Ausfuhr-erstattungen oder Ausfuhrabgaben, Bestimmung (Name des AKP-Staates oder der AKP-Staaten), Verordnung (EG) Nr. 931/2001
- Μαλακός σίτος παρέμβασης, χωρίς εφαρμογή επιστροφής ή φόρου προοριζόμενος για (όνομα της χώρας ΑΚΕ ή των χωρών ΑΚΕ), κανονισμός (ΕΚ) αριθ. 931/2001
- Intervention common wheat without application of refund or tax, bound for (name of the ACP State or States), Regulation (EC) No 931/2001
- Blé tendre d'intervention ne donnant pas lieu à restitution ni à taxe, destiné à (nom de l'État ACP ou des États ACP), règlement (CE) n° 931/2001
- Frumento tenero d'intervento senza applicazione di restituzione o di tassa, destinato al (nome del paese o dei paesi ACP), regolamento (CE) n. 931/2001
- Zachte tarwe uit interventie, zonder toepassing van restitutie of belasting, bestemd voor (naam van de ACS-Staat of de ACS-Staten), Verordening (EG) nr. 931/2001
- Trigo mole de intervenção sem aplicação de uma restituição, ou imposição destinado a (nome do Estado ou dos Estados ACP), Regulamento (CE) n.º 931/2001

- Interventiovehnä, jolle ei makseta vientitukea eikä vientimaksua ja jonka määräpaikka on (AKT-maan nimi tai AKT-maiden nimet), asetus (EY) N:o 931/2001
- Interventionsvete ej utan bidrag eller avgift avsett för (AVS-statens eller AVS-staternas namn), förordning (EG) nr 931/2001.

Article 10

1. The German intervention agency shall inform the Commission of the tenders received within three hours of the expiry of the time limit for submitting tenders. The information must be sent in the form laid down in Annex III to one of the telex or fax numbers listed in Annex IV.

2. It shall inform the Commission on a monthly basis of the quantities of common wheat removed pursuant to this Regulation.

Article 11

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

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Groups of ACP States signatories to the Lomé Convention

Group I	Group II	Group III
Mauritania Mali Niger Senegal Gambia Guinea-Bissau Guinea Cape Verde Sierra Leone Liberia Côte d'Ivoire Ghana Togo Nigeria	Chad Central African Republic Benin Cameroon Equatorial Guinea São Tomé and Príncipe Gabon Congo Democratic Republic of Congo Rwanda Burundi Burkina Faso	Seychelles Comoros Madagascar Mauritius Angola Zambia Malawi Mozambique Namibia Botswana Zimbabwe Lesotho Swaziland Djibouti Ethiopia Eritrea

ANNEX II

(tonnes)

Region of storage	Quantities
Schleswig-Holstein/Hamburg/Niedersachsen/ Bremen/Mecklenburg-Vorpommern	103 767
Nordrhein-Westfalen/Hessen/Rheinland-Pfalz/ Saarland/Baden-Württemberg/Bayern	28 752
Berlin/Brandenburg/Sachsen-Anhalt/Sachsen/ Thüringen	38 431

ANNEX III

Standing invitation to tender for the export of 170 950 tonnes of common wheat held by the German intervention agency

(Regulation (EC) No 931/2001)

1	2	3	4	5	6	7
Registration number of the tenderer	Lot number	Quantity in tonnes	Offer price (EUR/tonne) ⁽¹⁾	Increases (+) Reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases and reductions relating to the lot for which the tender is submitted.

ANNEX IV

The only telex and fax numbers in Brussels to be used are: DG AGRI/C/1:

- telex: 22037 AGREC B,
22070 AGREC B (Greek characters),
- fax: (32-2) 296 49 56,
(32-2) 295 25 15.

ANNEX V

Communication of refusal of lots under the standing invitation to tender for the export of 170 950 tonnes of common wheat held by the German intervention agency

(Article 6 of Regulation (EC) No 931/2001)

- Name of successful tenderer:
- Date of award of contract:
- Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not wheat of unimpaired quality — Other

COMMISSION REGULATION (EC) No 932/2001
of 11 May 2001
amending Regulation (EC) No 713/2001 on the purchase of beef under Regulation (EC) No 690/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 690/2001 of 3 April 2001 on special market support measures in the beef sector ⁽²⁾, and in particular Article 2(2),

Whereas:

- (1) Regulation (EC) No 690/2001 provides in its Article 2(2) in particular for the opening or the suspension of tendering for purchase of beef depending on the average market prices for the reference class during the two most recent weeks with price quotations preceding the tender.
- (2) The second subparagraph of Article 12 of the above-mentioned Regulation provides for a voluntary application of the tendering rules until 30 June 2001 in certain

Member States while the application is obligatory in others.

- (3) The application of Articles 2 and 12 referred to above results in the opening of purchase by tender in a number of Member States. Commission Regulation (EC) No 713/2001 ⁽³⁾ on the purchase of beef under Regulation (EC) No 690/2001 should be amended accordingly.
- (4) Since this Regulation should be applied immediately it is necessary to provide for its entry into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 713/2001 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 95, 5.4.2001, p. 8.

⁽³⁾ OJ L 100, 11.4.2001, p. 3.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —
LIITE — BILAGA

Estado miembro

Medlemsstat

Mitgliedstaat

Κράτος μέλος

Member State

État membre

Stati membri

Lidstaat

Estado-Membro

Jäsenvaltiot

Medlemsstat

Deutschland

Nederland

Österreich

COMMISSION REGULATION (EC) No 933/2001**of 11 May 2001****fixing the maximum purchasing price for butter for the 28th invitation to tender carried out under the standing invitation to tender governed by Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Article 13 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 213/2001 ⁽⁴⁾, provides that, in the light of the tenders received for each invitation to tender, a maximum buying-in price is to be fixed in relation to the interven-

tion price applicable and that it may also be decided not to proceed with the invitation to tender.

- (2) As a result of the tenders received, the maximum buying-in price should be fixed as set out below.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 28th invitation to tender issued under Regulation (EC) No 2771/1999, for which tenders had to be submitted not later than 8 May 2001, the maximum buying-in price is fixed at 295,38 EUR/100 kg.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 37, 7.2.2001, p. 1.

**COMMISSION REGULATION (EC) No 934/2001
of 11 May 2001
suspending the buying-in of butter in certain Member States**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Article 2 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 213/2001 ⁽⁴⁾, lays down the criteria for opening or suspending the buying-in of butter by invitation to tender in the Member States.
- (2) Commission Regulation (EC) No 827/2001 ⁽⁵⁾ suspending the buying-in of butter in certain Member States establishes the list of Member States in which intervention is suspended. As a result of the market prices communicated by Sweden, intervention must no longer be suspended in this country and the list of

Member States established by Regulation (EC) No 827/2001 adjusted accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter by invitation to tender as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Luxembourg, Denmark, Germany, France, Greece, the Netherlands, Austria, Finland and the United Kingdom.

Article 2

Regulation (EC) No 827/2001 is hereby repealed.

Article 3

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 37, 7.2.2001, p. 1.

⁽⁵⁾ OJ L 120, 28.4.2001, p. 9.

COMMISSION REGULATION (EC) No 935/2001**of 11 May 2001****fixing the maximum aid for concentrated butter for the 247th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; whereas the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 247th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

- | | |
|---------------------|-----------------|
| — maximum aid: | EUR 117/100 kg |
| — end-use security: | EUR 129/100 kg. |

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 45, 21.2.1990, p. 8.

⁽⁴⁾ OJ L 16, 21.1.1999, p. 19.

COMMISSION REGULATION (EC) No 936/2001**of 11 May 2001****fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 75th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽³⁾, as last amended by Regulation (EC) No 635/2000 ⁽⁴⁾, to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the intended use of the

butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices and the maximum aid and processing securities applying for the 75th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

No award shall be made as regards the sale of butter from intervention stocks.

Article 2

This Regulation shall enter into force on 12 May 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 350, 20.12.1997, p. 3.

⁽⁴⁾ OJ L 76, 25.3.2000, p. 9.

ANNEX

to the Commission Regulation of 11 May 2001 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 75th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Maximum aid	Butter ≥ 82 %		95	91	—	91
	Butter < 82 %		92	88	—	88
	Concentrated butter		117	113	117	113
	Cream		—	—	40	38
Processing security	Butter		105	—	—	—
	Concentrated butter		129	—	129	—
	Cream		—	—	44	—

COMMISSION REGULATION (EC) No 937/2001

of 11 May 2001

concerning the authorisation of new additive uses, new additive preparation, the prolongation of provisional authorisations and the 10 year authorisation of an additive in feedingstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 2697/2000 ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) Directive 70/524/EEC provides that new additives and new uses of additives may be authorised following the review of an application made in accordance with Article 4 of the Directive.
- (2) Article 9e(1) of the Directive provides that provisional authorisation of a new additive or new use of an additive may be given if the conditions of Article 3a(b) to (e) are satisfied and if it is reasonable to assume, in view of the available results, that when used in animal nutrition it has one of the effects referred to in Article 2(a). Such provisional authorisation may be given for a period up to four years in the case of additives referred to in Part II of Annex C to the Directive.
- (3) The assessment of the dossiers submitted in respect of the new uses of the enzyme and micro-organism preparations described in Annexes I and II shows that they satisfy the abovementioned conditions and may therefore be authorised on a provisional basis for a four-year period.
- (4) New data were submitted to extend the authorisation of an enzyme preparation provisionally listed under No 11 to a new physical form. The assessment of the dossier submitted shows that the new physical form may be provisionally authorised.
- (5) On 1 October 2000, the authorisation of the micro-organism preparation No 1 *Bacillus cereus* var. *toyoi* (NCIMB 40 112) was provisionally renewed for a limited period, in order to provide sufficient time for the safety reassessment of the strain with regard to production of toxins, as requested in the opinion of the Scientific Committee for Animal Nutrition (SCAN) on the safety of use of bacillus species in animal nutrition adopted on 17 February 2000.

- (6) According to the SCAN opinion on *Bacillus cereus* var. *toyoi* (NCIMB 40 112) adopted on 21 March 2001, the assessment of the dossiers submitted shows that the product may be considered safe as regard toxin production. The provisional authorisation of the product may therefore be resumed.
- (7) Article 2(aaa) of Directive 70/524/EEC requires authorisations for coccidiostats to be linked to the person responsible for putting them into circulation.
- (8) Article 9b of Directive 70/524/EEC provides that the authorisations of such substances shall be given for a period of 10 years from the date on which final authorisation takes effect, if all conditions laid down in Article 3a of Directive 70/524/EEC are met.
- (9) The assessment of the dossier submitted shows that the coccidiostat described in Annex IV satisfies all the requirements of Article 3a, when used in the animal category and under the conditions described in the said Annex.
- (10) The assessment of the dossier shows that certain procedures may be required to protect workers from exposure to the additives. Such protection should however be assured by the application of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽³⁾.
- (11) The Scientific Committee for Animal Nutrition has delivered a favourable opinion with regard to the safety of the enzyme and micro-organism preparations and of the coccidiostat, and with regard to the favourable effect on animal production of the latter, under the conditions described in the said Annex.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Feedingstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

The preparations belonging to the group 'Enzymes' listed in Annex I to the present Regulation are authorised for use as additives in animal nutrition under the conditions laid down in the Annex.

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.⁽²⁾ OJ L 319, 16.12.2000, p. 1.⁽³⁾ OJ L 183, 29.6.1989, p. 1.

Article 2

The preparations belonging to the group 'Micro-organism' listed in Annex II to the present Regulation are authorised for use as additives in animal nutrition under the conditions laid down in the Annex.

Article 3

The provisional authorisations of the preparation belonging to the group 'Micro-organisms' listed in Annex III are resumed under the conditions laid down in the Annex.

Article 4

The additive belonging to the 'Coccidiostats and other medicinal substances' listed in Annex IV to the present Regulation is authorised for use as additive in animal nutrition under the conditions laid down in that Annex.

Article 5

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

It shall apply from 1 June 2001.

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

Done at Brussels, 11 May 2001.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

No (or EC No)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					Units of activity/kg of complete feedingstuff			
11	Endo-1,4-beta-glucanase EC 3.2.1.4 Endo-1,3(4)-beta-glucanase EC 3.2.1.6 Endo-1,4-beta-xylanase EC 3.2.1.8	Preparation of endo-1,4-beta-glucanase, endo-1,3(4)-beta-glucanase and endo-1,4-beta-xylanase produced by <i>Trichoderma longibrachiatum</i> (ATCC 74 252) having a minimum activity of: Granular and Liquid form: Endo-1,4-beta-glucanase: 8 000 U ⁽¹⁾ /g or ml Endo-1,3(4)-beta-glucanase: 18 000 U ⁽²⁾ /g or ml Endo-1,4-beta-xylanase: 26 000 U ⁽³⁾ /g or ml	Chickens for fattening	—	Endo-1,4-beta-glucanase: 400 U Endo-1,3(4)-beta-glucanase: 900 U Endo-1,4-beta-xylanase: 1 300 U	— — —	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dosages per kilogram of complete feedingstuff: Endo-1,4-beta-glucanase: 400-1 600 U Endo-1,3(4)-beta-glucanase: 900-3 600 U Endo-1,4-beta-xylanase: 1 300-5 200 U. 3. For use in compound feed rich in non-starch polysaccharides (mainly arabinoxylans and beta-glucans), e.g. containing more than 30 % wheat or barley and more than 10 % rye.	30.6.2004

No (or EC No)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					Units of activity/kg of complete feedingstuff			
			Turkeys for fattening	—	Endo-1,4-beta-glucanase: 400 U Endo-1,3(4)-beta-glucanase: 900 U Endo-1,4-beta-xylanase: 1 300 U	— — —	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dosages per kilogram of complete feedingstuff: endo-1,4-beta-glucanase: 400-800 U endo-1,3(4)-beta-glucanase: 900-1 800 U endo-1,4-beta-xylanase: 1 300-2 600 U. 3. For use in compound feed rich in non-starch polysaccharides (mainly arabinoxylans and beta-glucans), e. g. containing more than 40 % wheat.	31.5.2005
51	Endo-1,4-beta-xylanase EC 3.2.1.8	Preparation of endo-1,4-beta-xylanase produced by <i>Bacillus subtilis</i> (LMG S-15136) having a minimum activity of 100 IU ⁽⁴⁾ /g	Piglets	2 months	10 IU	—	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kilogram of complete feedingstuff: 10 IU. 3. For use in compound feed rich in arabinoxylan, e. g. containing more than 40 % wheat.	31.5.2005

⁽¹⁾ 1 U is the amount of enzyme which liberates 0,1 micromoles of glucose from carboxymethylcellulose per minute at pH 5,0 and 40 °C.

⁽²⁾ 1 U is the amount of enzyme which liberates 0,1 micromoles of glucose from barley beta-glucan per minute at pH 5,0 and 40 °C.

⁽³⁾ 1 U is the amount of enzyme which liberates 0,1 micromoles of glucose from oat spelt xylan per minute at pH 5,0 and 40 °C.

⁽⁴⁾ 1 IU is the amount of enzyme which liberates 1 micromole of reducing sugars (xylose equivalents) from birchwood xylan per minute at pH 4,5 and 30 °C.

ANNEX II

No (or EC No)	Additive	Chemical formula description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					CFU/kg of complete feedingstuff			
3	<i>Saccharomyces cerevisiae</i> NCYC Sc 47	Preparation of <i>Saccharomyces cerevisiae</i> containing a minimum of 5 × 10 ⁹ CFU/g of additive	Dairy cows	—	4 × 10 ⁸	2 × 10 ⁹	In the directions for use of the addi- tive and the premixture, indicate the storage temperature, storage life and stability to pelleting. The quantity of <i>Saccharomyces cerevisiae</i> in the daily ration must not exceed 5,6 × 10 ⁹ CFU per 100 kg of body weight. Add 8,75 × 10 ⁹ per each additional 100 kg body weight.	31.5.2005
5	<i>Saccharomyces cerevisiae</i> CBS 493.94	Preparation of <i>Saccharomyces cerevisiae</i> containing a minimum of 1 × 10 ⁸ CFU/g additive	Dairy cows	—	5 × 10 ⁷	3,5 × 10 ⁸	In the directions for use of the addi- tive and premixture, indicate the storage temperature, storage life and stability to pelleting. The quantity of <i>Saccharomyces cerevisiae</i> in the daily ration must not exceed 1,2 × 10 ⁹ CFU for 100 kg body weight. Add 1,7 × 10 ⁸ CFU per each additional 100 kg body weight.	31.5.2005

ANNEX III

No (or EC No)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					CFU/kg of complete feedingstuff			
1	<i>Bacillus cereus</i> var. <i>toyoi</i> NCIMB 40112/ CNCM I-1012	Preparation of <i>Bacillus cereus</i> var. <i>toyoi</i> containing a minimum of 1×10^{10} CFU/g additive	Chickens for fattening	—	$0,2 \times 10^9$	1×10^9	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. May be used in compound feed containing the permitted coccidiostats: monensin sodium, lasolacid sodium, salinomycin sodium, deco- quinate, robenidine, narasin, halofuginone.	1.3.2002
			Laying hens	—	$0,2 \times 10^9$	1×10^9	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting.	1.3.2002
			Calves	6 months	$0,5 \times 10^9$	1×10^9	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting.	1.3.2002
			Cattle for fattening	—	$0,2 \times 10^9$	$0,2 \times 10^9$	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. The quantity of <i>Bacillus cereus</i> var. <i>toyoi</i> in the daily ration must not exceed $1,0 \times 10^9$ CFU for 100 kg body weight. Add $0,2 \times 10^9$ CFU for each additional 100 kg body weight.	1.3.2002

No (or EC No)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					CFU/kg of complete feedingstuff			
			Breeding does	—	0,1 × 10 ⁹	5 × 10 ⁹	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. May be used in compound feed containing the permitted coccidiostat: robenidine.	1.3.2002
			Rabbits for fattening	—	0,1 × 10 ⁹	5 × 10 ⁹	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. May be used in compound feed containing the permitted coccidiostats: robenidine, salino- mycin sodium.	1.3.2002

ANNEX IV

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
						mg of active substance/kg of complete feedingstuff			
Coccidiostats and other medicinal substances									
E 766	Intervet International bv	Salinomycin sodium 120 g/kg (Sacox 120)	<i>Additive composition:</i> Salinomycin sodium ≥ 120 g/kg Silicon dioxide 10-100 g/kg Calcium carbonate 350-700 g/kg <i>Active substance:</i> Salinomycin sodium, C ₄₂ H ₆₉ O ₁₁ Na, CAS number: 53003-10-4 sodium salt of a polyether monocarboxylic acid produced by fermentation of <i>Streptomyces albus</i> (DSM 12217) Related impurities: < 42 mg elaiophylin/kg salinomycin sodium, < 40 g de 17-epi-20-desoxy-salinomycin/kg salinomycin sodium.	Rabbits for fattening	—	20	25	Use prohibited at least 5 days before slaughter. Indicate in the instructions for use: 'Dangerous for equines'. This feedingstuff contains an ionophore: simultaneous use with certain medicinal substances (e.g. tiamulin) can be contra-indicated'	31.5.2011

COMMISSION DIRECTIVE 2001/31/EC**of 8 May 2001****adapting to technical progress Council Directive 70/387/EEC relating to the doors of motor vehicles and their trailers****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to type-approval of motor vehicles and their trailers ⁽¹⁾, as last amended by Directive 2000/40/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 13(2) thereof,

Having regard to Council Directive 70/387/EEC of 27 July 1970 on the approximation of the laws of the Member States relating to the doors of motor vehicle and their trailers ⁽³⁾, as last amended by Commission Directive 98/90/EC ⁽⁴⁾, and in particular Article 3 thereof,

Whereas:

- (1) Directive 70/387/EEC is one of the separate Directives of the EC type-approval procedure established by Directive 70/156/EEC. Consequently, the provisions laid down in Directive 70/156/EEC relating to vehicle systems, components and separate technical units apply to this Directive.
- (2) Directive 98/90/EC has introduced design requirements for the steps and handholds of cabs in order to improve the safety of persons entering and leaving the driver's compartment of certain heavy goods vehicles.
- (3) Certain cab designs already on the market cannot comply with the specific requirements introduced by Directive 98/90/EC, although their level of safety is considered equivalent. It is therefore necessary to further refine the technical requirements in order to allow such cab designs.
- (4) The measures provided for in this Directive are in accordance with the opinion of the Committee for the adaptation to technical progress established by Directive 70/156/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 70/387/EEC is amended in accordance with the Annex to this Directive.

Article 2

1. With effect from 1 October 2001, Member States may not on grounds relating to vehicle doors:

- refuse, in respect of a type of vehicle, to grant EC type-approval or national type-approval, or
- prohibit the sale, registration, or entry into service of vehicles,

if the vehicles comply with the requirements of Directive 70/387/EEC, as amended by this Directive.

2. With effect from 1 December 2001, Member States:

- shall no longer grant EC type-approval, and
- may refuse to grant national type-approval,

for a new type of vehicle on grounds relating to vehicle doors if the requirements of Directive 70/387/EEC, as amended by this Directive, are not fulfilled.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 September 2001 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 8 May 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 42, 23.2.1970, p. 1.

⁽²⁾ OJ L 203, 10.8.2000, p. 9.

⁽³⁾ OJ L 176, 10.8.1970, p. 5.

⁽⁴⁾ OJ L 337, 12.12.1998, p. 29.

ANNEX

Annex III to Directive 70/387/EEC is amended as follows:

1. The following sentence is added to item 1.2:
‘The last requirement shall not apply to the distance between the uppermost step and the cab floor.’
 2. The seventh indent in item 1.3 is replaced by the following:
‘— Longitudinal overlap (j) between two subsequent steps in the same flight, or between the uppermost step and the cab floor ... 200 mm.’
 3. The introductory phrase of item 2.2.3 is replaced by the following:
‘In addition, the minimum distance (P) of the upper edge of the handrail(s) or handholds or equivalent holding devices from the floor of the driver's compartment shall be: ...’
-

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION No 4/2000 OF THE EU-SLOVENIA ASSOCIATION COUNCIL
of 21 December 2000**

adopting the necessary rules for the implementation of Article 65(1)(i), (1)(ii) and (2) of the Europe Agreement and the rules for the implementation of Article 7(1)(i), (1)(ii) and (2) of Protocol 2 on products covered by the ECSC Treaty

(2001/367/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, and in particular Article 65(3) thereof,

Having regard to Protocol 2 on products covered by the ECSC Treaty to the aforementioned Europe Agreement, and in particular Article 7(3) thereof,

Whereas:

- (1) Pursuant to Article 65(3) of the Europe Agreement the necessary rules for the implementation of Article 65(1) and (2) thereof should be adopted by the Association Council within three years of the entry into force of the Agreement.
- (2) Article 7(3) of Protocol 2 to the Europe Agreement lays down that the Association Council shall, within three years of the entry into force of the Agreement, adopt the necessary rules for the implementation of paragraphs 1 and 2 of that Article,

HAS DECIDED AS FOLLOWS:

Article 1

The necessary rules implementing Article 65(1)(i), (1)(ii) and (2) of the Europe Agreement and the rules implementing Article 7(1)(i), (1)(ii) and (2) of Protocol 2 on products covered by the ECSC Treaty, as set out in the Annex to this Decision, are hereby adopted.

Article 2

This Decision shall be published in the *Official Journal of the European Communities* and in *Uradni list Republike Slovenije*.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 21 December 2000.

For the Association Council

The President

D. RUPEL

ANNEX

Implementing rules for the application of the competition provisions applicable to undertakings provided for in Article 65(1)(i), (1)(ii) and (2) of the Europe Agreement establishing an association between the European Communities and their Member States acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, and in Article 7(1)(i), (1)(ii) and (2) of Protocol 2 on products covered by the ECSC Treaty

Article 1

General principle

- 1.1. Cases relating to agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition as well as to abuses of a dominant position in the territories of the Community or of the Republic of Slovenia as a whole or in a substantial part thereof, which may affect trade between the Community and the Republic of Slovenia, shall be settled according to the principles contained in Article 65(1) and (2) of the Europe Agreement.
- 1.2. For this purpose, these cases are dealt with by the Commission of the European Communities (DG IV) on the Community side and the Slovenian Competition Protection Office (CPO) on the Slovenian side.
- 1.3. The competences of the EC Commission and the CPO to deal with these cases shall flow from the existing rules of the respective legislation of the Community and the Republic of Slovenia, including where these rules are applied to undertakings located outside the respective territory.
- 1.4. Both authorities shall settle the cases in accordance with their own substantive rules, and having regard to the provisions set out below. The relevant substantive rules of the authorities are the competition rules of the Treaty establishing the European Community as well as the Treaty establishing the European Coal and Steel Community, including the competition-related secondary legislation, for the EC Commission, and the Prevention of the Restriction of Competition Act for the CPO.

ECONOMIC ACTIVITIES UNDER THE EC TREATY

Article 2

Competence of both competition authorities

Cases under Article 65 of the Europe Agreement which may affect both the Community and the Slovenian market and which may fall under the competence of both competition authorities shall be dealt with by the EC Commission and the CPO, according to the rules under this Article.

2.1. Notification

- 2.1.1. The competition authorities shall notify to each other those cases they are dealing with, which, according to the general principle laid down in Article 1, appear also to fall under the competence of the other authority.
- 2.1.2. This situation may arise in particular in cases concerning activities that:
 - involve anti-competitive activities carried out in the other authority's territory,
 - are relevant to enforcement activities of the other competition authority,
 - involve remedies that would require or prohibit particular conduct in the other authority's territory.
- 2.1.3. Notification under this Article shall include sufficient information to permit an initial evaluation by the recipient party of any effects on its interests. Copies of the notifications shall be submitted on a regular basis to the Association Council.
- 2.1.4. Notification shall be made in advance, as soon as possible and at the latest at the stage of an investigation still far enough in advance of the adoption of a settlement or decision, so as to facilitate comments or consultations and to enable the proceeding authority to take into account the other authority's views, as well as to take such remedial action it may find feasible under its own laws, in order to deal with the case in question.

2.2. Consultation and comity

Whenever the EC Commission or the CPO considers that anti-competitive activities carried out on the territory of the other authority are substantially affecting important interests of the respective Party, it may request consultation with the other authority, or it may request that the other Party's competition authority initiate any appropriate procedures with a view to taking remedial action under its legislation on anti-competitive activities. This is without prejudice to any action under the requesting Party's competition law and does not hamper the full freedom of ultimate decision of the authority so addressed.

2.3. Finding of an understanding

The competition authority so addressed shall give full and sympathetic consideration to such views and factual materials as may be provided by the requesting authority and, in particular, to the nature of the anti-competitive activities in question, the enterprises involved and the alleged harmful effects on the important interests of the requesting Party.

Without prejudice to any of their rights or obligations, the competition authorities involved in consultations under this Article shall endeavour to find a mutually acceptable solution in the light of the respective important interests involved.

Article 3

Competence of one competition authority only

- 3.1. Cases falling under the exclusive competence of one competition authority, in accordance with the principle laid down in Article 1, and which may affect important interests of the other Party, shall be handled having regard to the provisions set out in Article 2, and taking account of the principles set out below.
- 3.2. In particular, whenever one of the competition authorities undertakes an investigation or proceeding in a case which is found to affect important interests of the other Party, the proceeding authority shall notify this case to the other authority, without formal request by the latter.

Article 4

Request for information

- 4.1. Whenever the competition authority of a Party becomes aware of the fact that a case, falling also or only under the competence of the other authority, appears to affect important interests of the first Party, it may request information about this case from the proceeding authority.
- 4.2. The proceeding authority shall give sufficient information to the extent possible and at a stage of its proceedings far enough in advance of the adoption of a decision or settlement to enable the requesting authority's views to be taken into account.

Article 5

Secrecy and confidentiality of information

- 5.1. Having regard to Article 65(7) of the Europe Agreement, neither competition authority is required to provide information to the other authority if disclosure of that information to the requesting authority is prohibited by the law of the authority possessing the information, or would be incompatible with important interests of the Party whose authority is in possession of the information.
- 5.2. Each authority agrees to maintain, to the fullest extent possible, the confidentiality of any information provided to it in confidence by the other authority.

Article 6

Block exemptions

- 6.1. In the application of Article 65 of the Europe Agreement as provided for in Articles 2 and 3 of these implementing rules, the competition authorities shall ensure that the principles contained in the block exemption regulations in force in the Community shall be applied in full. The CPO shall be informed of any procedure related to the adoption, abolition or modification of block exemptions by the Community.
- 6.2. Where such block exemption regulations encounter serious objections on the Slovenian side, and having regard to the approximation of legislation as foreseen in the Europe Agreement, consultations shall take place in the Association Council, in accordance with the provisions contained in Article 9.
- 6.3. The same principles shall apply regarding other significant changes in the Community or Slovenian competition policies.

Article 7

Merger control

With regard to mergers which fall within Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings⁽¹⁾, and which have a significant impact on the Slovenian economy, the CPO shall be entitled to express its view in the course of the procedure, taking into account the time limits as provided for in the aforementioned Regulation. The EC Commission shall give due consideration to that view, without prejudice to any action under the Parties' competition laws.

⁽¹⁾ OJ L 395, 30.12.1989, p.1. Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p. 1).

*Article 8***Activities of minor importance**

- 8.1. Anti-competitive activities whose effects on trade between the Parties or on competition are negligible do not fall under Article 65(1) of the Europe Agreement and therefore are not to be treated under the Articles 2 to 6 of the present implementing rules.
- 8.2. Negligible effects within the meaning of paragraph 8(1) are generally presumed to exist when:
- the aggregate annual turnover of the participating undertakings does not exceed EUR 200 million, and
 - the goods or services which are the subject of the Agreement together with the participating undertakings' other goods or services which are considered by users to be equivalent in view of their characteristics, price and intended use, do not represent more than 5 % of the total market for such goods or services in the area of the common market affected by the Agreement, and the Slovenian market affected by the Agreement.

*Article 9***Association Council**

- 9.1. Whenever the procedures provided for in Articles 2 and 3 above do not lead to a mutually acceptable solution, as well as in other cases explicitly mentioned in these implementing rules, an exchange of views shall take place in the Association Council at the request of one Party within three months following the request.
- 9.2. Following this exchange of views, or after expiry of the period referred to in paragraph 9.1, the Association Council may make appropriate recommendations for the settlement of these cases, without prejudice to Article 65(6) of the Europe Agreement. In these recommendations, the Association Council may take into account any failure of the requested authority to give its point of view to the requesting authority within the period referred to in Article 9.1.
- 9.3. These procedures in the Association Council are without prejudice to any action under the respective competition laws in force in the territory of the Parties.

*Article 10***Negative conflict of competence**

When both the EC Commission and the CPO consider that neither of them is competent to handle a case on the basis of their respective legislation, an exchange of views shall take place on request in the Association Council. The Community and the Republic of Slovenia shall endeavour to find a mutually acceptable solution in the light of the respective important interests involved with the support of the Association Council, which may make appropriate recommendations, without prejudice to Article 65(6) of the Europe Agreement, and the rights of individual Member States of the European Communities on the basis of their competition rules.

ECONOMIC ACTIVITIES UNDER THE ECSC TREATY*Article 11***Treaty establishing the European Coal and Steel Community (ECSC)**

The provisions contained in Articles 1 to 6 and 8 to 10 shall apply with respect to the coal and steel sector as referred to in Protocol 2 to the Europe Agreement.

*Article 12***Administrative assistance (languages)**

The Commission and the CPO will provide for practical arrangements for mutual assistance or any other appropriate solution concerning in particular the question of translations.

COUNCIL DECISION
of 7 May 2001
on the adjustment of the allowances paid to members and alternates of the Economic and Social
Committee

(2001/368/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the fourth subparagraph of Article 258 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the fourth subparagraph of Article 166 thereof,

Having regard to the request from the Economic and Social Committee of 15 March 2001,

Whereas:

- (1) The amounts of the daily allowances paid to members and alternates of the Economic and Social Committee, laid down by Council Decision 81/121/EEC ⁽¹⁾, should be adapted.
- (2) Provision should be made for the amounts of the daily allowances to be revised after a year, having regard to the principle sought by the Council that reimbursements should be based on the actual costs incurred rather than on a flat-rate arrangement.
- (3) The Economic and Social Committee should be allowed to set the amount of experts' allowances,

HAS DECIDED AS FOLLOWS:

Article 1

Article 2 of Decision 81/121/EEC shall be replaced by the following:

'Article 2

1. The daily allowance per travel day shall be:
— EUR 120 for members and alternates.
2. The daily allowance per meeting day shall be:
— EUR 181 for members and alternates.
3. Where the beneficiary furnishes satisfactory proof that he has incurred expenditure on an overnight stay at the place of work, he shall be paid a supplementary daily allowance of EUR 25.'

Article 2

The Council may revise the amounts laid down in Article 1 of this Decision, on the basis of a report submitted by the Economic and Social Committee as from 1 May 2002.

Article 3

This Decision shall take effect on 1 May 2001.

It shall expire on 31 December 2002.

Done at Brussels, 7 May 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 67, 12.3.1981, p. 29. Decision as last amended by Council Decision 93/358/EC, Euratom (OJ L 205, 31.8.1995, p. 38).

COUNCIL DECISION
of 7 May 2001
appointing two United Kingdom members of the Committee of the Regions

(2001/369/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the Council Decision of 26 January 1998 ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions,

Whereas two seats as members of the Committee of the Regions have become vacant following the resignation of Mr John BATTYE and Ms Jane HORE, notified to the Council on 3 April 2001,

Having regard to the proposal from the United Kingdom Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Derek BODEN is hereby appointed a member of the Committee of the Regions in place of Mr John BATTYE and Ms Ruth BAGNALL is hereby appointed a member of the Committee of the Regions in place of Ms Jane HORE, for the remainder of their terms of office, which run until 25 January 2002.

Done at Brussels, 7 May 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 28, 4.2.1998, p. 19.

COUNCIL DECISION
of 7 May 2001
appointing a Portuguese alternate member of the Committee of the Regions

(2001/370/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the Council Decision of 26 January 1998 ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions,

Whereas a seat as an alternate member of the Committee of the Regions has become vacant following the resignation of Mr José Agostinho GOMES PEREIRA DE GOUVEIA, notified to the Council on 8 January 2001,

Having regard to the proposal from the Portuguese Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr João Carlos CUNHA E SILVA is hereby appointed an alternate member of the Committee of the Regions in place of Mr José Agostinho GOMES PEREIRA DE GOUVEIA, for the remainder of his term of office, which runs until 25 January 2002.

Done at Brussels, 7 May 2001.

For the Council

The President

B. RINGHOLM

⁽¹⁾ OJ L 28, 4.2.1998, p. 19.

COMMISSION

COMMISSION DECISION

of 21 December 2000

on the exemption from mineral levies under the manure law which the Netherlands intends to grant

(notified under document number C(2000) 4404)

(Only the Dutch version is authentic)

(2001/371/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 called on interested parties to submit their comments pursuant to the provision cited above ⁽¹⁾,

Whereas:

I. PROCEDURE

- (1) By letter dated 7 October 1999, registered on 13 October 1999, the Netherlands notified the Commission of certain exemptions to the mineral levies which have been introduced by the manure law. By letters dated 10 January 2000, registered on 12 January 2000, it provided the Commission with further information.
- (2) By letter dated 20 March 2000, the Commission informed the Netherlands that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the proposed exemptions to the mineral levies.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested parties to submit their comments on the aid.
- (4) The Commission received no comments from interested parties.
- (5) The Dutch authorities have provided further information by letter of 17 May 2000.

II. DESCRIPTION

- (6) This system in Chapter IV of the manure law provides for an obligatory bookkeeping system for minerals on the individual holding and maximum phosphate and

nitrogen emissions into the environment per holding. If emissions go beyond these maximum quantities taxes will have to be paid for these quantities. The prohibitive levies are only being levied if the total amount of phosphate and nitrogen introduced on a farm minus the total amount of minerals removed exceeds in a calendar year the norms for the permissible wastage of phosphate and nitrogen in the environment (so-called 'loss norms'). If an undertaking takes effective measures, e.g., the removal of manure which may not be spread on the land, it will not have to pay any levies.

- (7) Under the proposed measure small undertakings (so-called 'hobby-undertakings') and garden centres are fully exempted from the mineral levies provided for by the manure law. Horticultural farms growing crops in glass-houses or on substrate are partially exempted.

A. EXEMPTION FOR SMALL UNDERTAKINGS (HOBBY UNDERTAKINGS)

- (8) Article 38 of the manure law already provides for an exemption for, *inter alia*, extensive livestock farming, as the policy aim is to focus on the undertakings with the biggest environmental risks to which category extensive livestock farms in principle do not belong.
- (9) The reason for introducing a separate exemption for small, extensive livestock farms (hobby undertakings) is that some of these may not meet the formal requirements provided for by Article 38 of the manure law. The idea is that the production of animal manure is so limited on such undertakings that measures for the disposal of the manure can easily be adopted. This exemption applies to undertakings which have on average no more than three livestock units ⁽³⁾ and three hectares of agriculture land during a calendar year, and

⁽¹⁾ OJ C 190, 8.7.2000, p. 4.

⁽²⁾ See footnote 1.

⁽³⁾ For example, sows for slaughter are 0,288 livestock units, which implies that about 10 such sows can be held; laying hens older than 18 weeks are 0,012 livestock units, which implies that about 250 such hens can be kept.

which do not introduce any animal or other organic fertilisers. Hobby undertakings are also exempted from the levy destined to cover the costs the government has to bear to execute the manure law.

B. EXEMPTION FOR HORTICULTURAL UNDERTAKINGS

- (10) Horticultural undertakings growing crops in glasshouses (hereafter 'soil-bound horticulture') or on substrate (hereafter 'non-soil bound horticulture') are partially exempted. The reason for excluding these categories is that the system of mineral levies does not take into account the specificity of the growing processes for soil-bound and non-soil bound horticulture.
- (11) The amount of fertilisers exempted under this scheme amounts to maximum 460 kg phosphates per hectare of growing medium or farm building effectively used for horticulture. The maximum for nitrogen per hectare is 800 kg.
- (12) Article 54 of the manure law provides for a temporary exemption for artificial manure for determining the amount of phosphates. Therefore, a similar exemption will apply to horticulture.

C. EXEMPTION FOR GARDEN CENTRES

- (13) Garden centres introduce fertilisers in order to sell them to private persons. The garden centres are exempted from the mineral levies. Furthermore, the garden centre as seller and the private person as buyer are exempted from the administrative requirement to prepare a delivery receipt for the delivery of animal or organic manure.
- (14) Garden centres may also perform horticultural activities in which case the partial exemption applicable to horticultural undertakings mentioned above also applies.

D. REASONS FOR THE COMMISSION TO OPEN THE PROCEDURE

- (15) Although the Dutch authorities are of the view that the tax exemptions are justified 'by the nature or general scheme of the system' (see Commission notice on the application of the State aid rules to measures relating to direct business taxation ⁽⁴⁾, hereafter 'Notice on direct business taxation') and therefore, does not constitute State aid within the meaning of Article 87(1) of the EC Treaty, they have notified the regulation for examination by the Commission.
- (16) Item 23 of the notice on direct business taxation indeed provides that the differential nature of some fiscal measures does not necessarily mean that they must be considered to be State aid. This is the case with measures whose economic rationale makes them necessary to the

functioning and effectiveness of the tax system. However, it is up to the Member State to provide such justification.

- (17) The Dutch authorities provided the following justification:

- (18) With regard to hobby undertakings: The Minas system contained in the manure law aims at reducing the loss of phosphates and nitrogen into the environment at company level. Minas does not want to bring private individuals who keep a few animals in the scope of the law, since there is no farming business and hardly any environmental risks. If one keeps a few animals but has only very limited land, it is possible that that person does not meet the requirement of 2,5 livestock units per hectare as laid down in Article 38 of the law and can thus not benefit from the exemption from the mineral levies. To avoid that individuals who keep animals for non-commercial purposes have to pay levies, the proposed measure contains an exemption for so-called hobby undertakings. Animals are deemed to be kept for non-commercial purposes when there are no more than three livestock units, irrespective of the amount of farmland available.

- (19) With regard to horticulture and garden centres performing horticultural activities: the input norms of 460 kg of phosphates and 800 kg of nitrogen for horticulture undertakings and garden centres with horticultural activities are based on research data from the Research Station for Floriculture and Vegetables under glass on the uptake of phosphates and nitrogen by crops grown in glasshouses. These data show that the uptake of crops grown in glasshouses amounts on average to 460 kg phosphates and 800 kg nitrogen per year. The uptake is thus considerably higher than for outdoor crops. This is logical as production for crops cultivated under glass is eight times as high as for outdoor crops. By putting the norms for phosphate and nitrogen at the level of the uptake of phosphates and nitrogen, it can be avoided that these undertakings have to pay levies unduly. This is the reason that these norms are higher than the norms for agricultural undertakings and the norms contained in the Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽⁵⁾, hereafter 'Nitrates Directive'.

- (20) With regard to garden centres introducing fertilisers to sell to private persons: the amount of introduced manure and manure sold is in the end identical.

- (21) The Commission considered that this explanation did not permit it to conclude that the various exemptions are justified by the nature and economy of the system.

⁽⁴⁾ OJ C 384, 10.12.1998, p. 3.

⁽⁵⁾ OJ L 375, 31.12.1991, p. 1.

- (22) Article 38 of the manure law provides for an exemption for extensive livestock farming. Notwithstanding their limited size, some of the hobby undertakings may be economic actors. It should be emphasised that there is no *de minimis* threshold in agriculture ⁽⁶⁾. Providing for an additional exemption for such hobby undertakings not meeting the formal exemption requirements would not seem to be justified by the nature or general scheme of the system. Furthermore, it would not seem obvious to now apply a criterion of three livestock units (irrelevant of the amount of land, but in any event less than three hectare), whereas the general exemption of Article 38 is based on a criterion of 2,5 livestock units (per hectare).
- (23) As regards the exemption for horticulture, it would seem within 'the nature or general scheme of the system' to equate the land or growing medium inside the farm building with farm land and then apply the same input norms. A normal application of the input/output regime would thus assure equal treatment and would not constitute a State aid. However, in the case at hand, it would seem that the amounts which can be introduced are much higher (460 kg phosphate per hectare and 800 kg nitrogen per hectare). Therefore, also in this respect, there would not seem to be an inherent reason for granting the proposed exemption to horticulture.
- (24) As regards garden centres selling fertilisers to sell to private persons, such exemption could be viewed as an exemption 'within the nature or general scheme of the system' as the amount of introduced manure and manure sold should in the end be identical — the garden centre itself does not have any losses into the environment. In this respect, it would seem that there is no aid. However, as regards the exemption for garden centres performing themselves horticultural activities, to the extent the same system applies as for soil-bound and non-soil bound horticulture, again there would not seem to be an inherent reason for granting the proposed exemption.
- (25) Finally, the Commission had already expressed doubts about the compatibility of the Dutch manure law and system of mineral levies with the Nitrates Directive. It has issued a letter of formal notice to which the Netherlands has replied and which is currently further investigated by the Commission. The system of mineral levies, which allows undertakings to continue exceeding the norms laid down in the Nitrates Directive if they pay the levies, may not be compatible with the Nitrates Directive. The fact that the norms may be exceeded by the farmers on payment of a levy may not give sufficient guarantee that the norms will be met. Also, the so-called loss norms are higher than what is allowed under the Nitrates Directive without triggering the payment of levies. Article 38 of the manure law already allows for an exemption for extensive livestock farming, submitting those farms to a maximum quantity of manure that can be spread each year which is stated in terms of phosphate instead of nitrate, as is required by the Nitrates Directive and which exceeds the maximum permitted by the Directive. Granting further exemptions may aggravate this situation.
- (26) Furthermore, if the exemption were to be granted to hobby undertakings, there would seem to be no rule assuring compliance with the limit provided by the Nitrates Directive (170 kg N/ha/year). The Nitrates Directive does not provide for a *de minimis* exception for small undertakings. The Dutch authorities have not demonstrated that such hobby undertakings would *per se* meet the norms imposed by the Nitrates Directive.
- (27) It should also be noted that the amount of nitrogen permitted for garden centres and horticulture vastly exceeds the amounts permitted on the basis of the Nitrates Directive (170 kg of nitrate per hectare; derogation permitted for four years up to 210 kg). In the absence of data on the loss of nitrate in the water and taking into account the high amount of input of nitrogen permitted (vastly exceeding the norms laid down in the Nitrates Directive) the Commission has doubts about the environmental effects of the proposed exemptions.
- (28) Consequently, the Commission has initiated the procedure in accordance with Article 88(2) of the Treaty.

III. COMMENTS FROM DUTCH AUTHORITIES

- (29) By letter of 17 May 2000, the Dutch Minister of Agriculture, Nature Conservation and Fisheries has written to Commissioner Fischler bringing forward arguments to reconsider the opinion set forward by the Commission in the opening of the procedure. By letter of 3 July 2000, the Dutch authorities have confirmed that this letter is to be viewed as the official submission of comments from the Netherlands in reaction to the opening of the proceedings in the sense of Article 6(1) of Council Regulation (EC) No 659/1999 ⁽⁷⁾.
- (30) The information provided by the Dutch authorities is summarised hereafter.
- (31) The Dutch authorities argue that the Commission wrongly assimilates the proposed measures to a tax exemption and thus a loss of tax income, which constitutes a State aid. The Commission thus neglects the prohibitive character of the levies. Minas does not aim to generate income for the State, but to regulate the use of fertilisers. It can thus be compared to fines imposed for violation of criminally sanctioned provisions. In view of the content and aims of the measure, it cannot be qualified as a tax measure, an exemption of which constitutes State aid in the sense of Article 87 of the Treaty.

⁽⁶⁾ Commission notice on the *de minimis* rule for State aid, OJ C 68, 6.3.1996.

⁽⁷⁾ OJ L 83, 27.3.1999, p. 1.

- (32) Furthermore, the Dutch authorities indicate that they do not dispute the right of the Commission to object to the norms of the Dutch manure policy on the basis of the Nitrates Directive. However, the objections of the Commission should be dealt within the context of the Nitrates Directive and not via a State aid procedure.
- (33) Finally, the Dutch authorities claim, without bringing forward any further arguments, that the proposed exemptions are fully justified in view of the nature and aims of Minas.

IV. ASSESSMENT

- (34) In the absence of any further information, the doubt which lead the Commission to open the procedure against the proposed exemptions persists.
- (35) Article 87(1) of the Treaty provides as follow: 'Save as otherwise provided in this Treaty, 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 shall, in so far as it affects trade between Member States, be incompatible with the common market.'
- (36) In the case at hand, support is granted by a Member State in favour of certain undertakings as they are relieved from certain levies. The fact that this scheme is analogous in working to fines imposed for certain criminal provisions does not alter the fact that the Minas system is construed as a levy system. Derogations therefrom may constitute State aid. This support may affect trade between Member States. There is an important trans-border trade of live animals and horticultural products. Furthermore, if a Member State would have established a fine system, it can be argued that exemptions from such a generally applicable fine system could still constitute State aid in the sense of Article 87(1) of the EC Treaty. Indeed, the Court of Justice of the European Communities has confirmed that the concept of aid is wider than that of a subsidy because it embraces not only positive benefits, such as subsidies themselves, but also measures which, in various forms, mitigate the charges which are normally included in the budget of an

undertaking and which, without therefore being subsidies in the strict sense, are similar in character and have the same effect⁽⁸⁾. As other undertakings are submitted to the levies (or 'fines'), the exempted undertakings clearly improve their competitive position. Contrary to what the Dutch authorities maintain, the nature and aims of the scheme do thus not permit to avoid a qualification as State aid. The Court and the Tribunal have also on various occasions confirmed that 'Article 87(1) makes no distinction according to the causes or aims of the aid in question, but defines it in relation to its effects'⁽⁹⁾. The effect of the measure is to confer an advantage on certain undertakings who are exempted from certain taxes.

- (37) The arguments raised by the Dutch authorities before the opening of the procedure regarding the non-commercial nature and the absence of farming business in what they call 'hobby undertakings'⁽¹⁰⁾ (see recital 18) must also be rejected. The absence of commercial purposes is a pure presumption. As indicated in footnote 3, three livestock units is for instance the equivalent of approximately 250 laying hens. The proposed criteria indicate only that the beneficiary has a very small amount of land in comparison with the amount of animals held, and does not meet the general exemption foreseen in Article 38 of the manure law (no more than 2,5 livestock units per hectare). It follows that the proposed exemption may benefit specific undertakings involved in the commercial production of products listed in Annex I of the Treaty which are or may be involved in trans-border trade. Therefore, the measure does not seem justified by the nature or general scheme of the system.
- (38) The Dutch authorities have not brought forward any additional information with regard to garden centres and horticultural undertakings.
- (39) Therefore, the Commission maintains the objections it has raised against the proposed partial exemption for horticulture undertakings and garden centres performing horticulture activities. As regards the exemption for horticulture, it is within 'the nature or general scheme of the system' to equate the land or growing medium inside the farm building with farm land and then apply the same input norms. However, in the case at hand, the amounts which can be introduced are much higher (460 kg phosphate per hectare and 800 kg nitrogen per hectare⁽¹¹⁾). Levies must only be paid once these higher norms are exceeded. Therefore, there is no inherent reason for granting the proposed exemption to horticulture and the Dutch authorities have not provided such justification. As regards the partial exemption for garden centres performing themselves horticultural

⁽⁸⁾ Case C-295/97, 17 June 1999, *Piaggio v Italia* e.a., ECR 1999 page I-3735.

⁽⁹⁾ Case C-75/97, 17 June 1999, *Belgium v Commission* ('Maribel bis/ter', ECR 1999 page I-3671; Case T-14/96, 28 January 1999, *BAI v Commission*, ECR 1999 page II-139).

⁽¹⁰⁾ It should also be noted that the draft law and the explanatory note just use the term 'small undertakings'. It would seem that commercial undertakings are in no way excluded from the proposed exemption.

⁽¹¹⁾ By way of comparison, the manure law foresees a maximum permissible loss per hectare of agriculture land of 35 kg phosphates in 2000 and 2001, which will be further reduced in future to 25 kg as of 2005; for nitrogen, the maximum amount permitted for grassland is 275 kg in 2000 and 2001, to be further reduced in future (200 kg as of 2005).

activities, to the extent the same system applies as for soil-bound and non-soil bound horticulture (i.e. with higher permissible amounts of phosphates and nitrogen per hectare, whereby levies must only be paid beyond these amounts), again there is no inherent reason for granting the proposed exemption. Therefore, the measure is not justified by the nature or general scheme of the system.

- (40) On the contrary, the exemptions would seem to meet all the conditions (referred to by way of analogy) mentioned in paragraphs 9 to 12 of the notice on direct business taxation: (a) the measure confers on recipients an advantage which relieves them of charges that are normally borne from their budgets, (b) the advantage is granted by the State (loss of revenue), (c) the measure may affect competition and trade between Member States, which is the case if the beneficiary carries on economic activity involving trade between Member States, (d) lastly, the measure must be specific or selective.
- (41) This kind of aid must be considered as operating aid. Such aids which simply relieve economic operators of their normal operating costs confer only a short-term economic advantage for the beneficiary which ceases as soon as the payment of aid stops and are particularly liable to distort competition. Such aids therefore cannot be considered either to promote the economic development of areas where the standard of living is abnormally low (Article 87(3)(a)) nor to facilitate the development of certain economic activities or of certain economic areas (Article 87(3)(c)).
- (42) Operating aid is not normally allowed (see item 5.5.1 of the Community Guidelines on State aid in the agriculture sector ⁽¹²⁾). Such aids can only be allowed if they are temporary and degressive, which is not the case here.
- (43) The Commission explicitly rejects the argument as if the State aid procedure would be (ab)used to enforce the Nitrates Directive. The examination under Articles 87 to 89 of the EC Treaty encompasses an investigation of compatibility with other Community legislation. It is clear that the outcome of a State aid procedure may never produce a result which is contrary to the specific provisions of the Treaty ⁽¹³⁾. (See Article 174 (ex 130 R) of the Treaty and Community legislation adopted on that basis (see Article 87(1) of the EC Treaty)). It can also be pointed out that a specific infringement procedure has been introduced against the Netherlands for non-

respect of the Nitrates Directive ⁽¹⁴⁾ where the Commission took the view that at that stage, the Dutch manure legislation would not seem to comply with the Nitrates Directive. In any event, as explained above, the Commission has confirmed the objections against the proposed tax relief independent of its compliance with the Nitrates Directive as it must be considered as a pure operating aid.

V. CONCLUSION

- (44) For the reasons given above, the Commission must draw the conclusion that the proposed tax exemptions for small undertakings (hobby undertakings), for horticultural undertakings and for garden centres performing horticultural activities cannot be considered to be in the common interest, and thereby qualify for exemption under Article 87(3)(c) of the Treaty.

The Commission therefore takes the view that the aid measure in question is incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The tax exemptions under the Minas system which the Netherlands intends to grant to small undertakings (hobby undertakings), horticultural undertakings and garden centres performing horticultural activities is incompatible with the common market. The aid scheme must therefore not be implemented.

Article 2

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

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 21 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹²⁾ OJ C 28, 1.2.2000, p. 2.

⁽¹³⁾ Case C-225/91, 15 June 1993, *Matra v Commission*, ECR 1993 page I-3203.

⁽¹⁴⁾ See Commission Press Release IP/00/204 of 1 March 2000.

COMMISSION DECISION
of 11 May 2001
amending Decision 2001/356/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom

(notified under document number C(2001) 1437)

(Text with EEA relevance)

(2001/372/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) Following the reports of outbreaks of foot-and-mouth disease in the United Kingdom, the Commission adopted Decision 2001/356/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom and repealing Decision 2001/172/EC ⁽⁴⁾.
- (2) Although the disease situation is improving, it appears necessary to prolong the measures provided for in Decision 2001/356/EC.

- (3) The situation shall be reviewed at the meeting of the Standing Veterinary Committee scheduled for 12 June 2001 and the measures adapted where necessary.

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

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2001/356/EC the date in Article 15 is replaced by '19 June 2001'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 11 May 2001.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 125, 5.5.2001, p. 46.