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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 112/2002
of 23 January 2002
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 24 January 2002.

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

Done at Brussels, 23 January 2002.

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 23 January 2002 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	111,8
	204	93,2
	212	121,5
	624	242,6
	999	142,3
0707 00 05	052	194,6
	628	191,7
	999	193,1
0709 90 70	052	215,9
	204	308,1
	999	262,0
0805 10 10, 0805 10 30, 0805 10 50	052	60,0
	204	52,2
	212	44,3
	220	53,6
	388	23,9
	508	21,1
	624	41,6
	999	42,4
0805 20 10	204	100,4
	999	100,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	62,1
	204	86,2
	464	120,2
	624	87,3
	999	89,0
0805 50 10	052	54,0
	600	57,3
	999	55,6
0808 10 20, 0808 10 50, 0808 10 90	052	51,3
	060	39,0
	400	106,5
	404	91,1
	720	113,4
	999	80,3
	388	142,0
0808 20 50	400	110,9
	720	100,7
	999	117,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 113/2002
of 23 January 2002
amending Council Regulation (EC) No 2223/96 with regard to revised classifications of expenditure
according to purpose
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community ⁽¹⁾, as last amended by Regulation (EC) No 2558/2001 of the European Parliament and of the Council ⁽²⁾, and in particular Article 2(2) and Article 3(2) thereof,

Whereas:

- (1) Regulation (EC) No 2223/96 contains the reference framework of common standards, definitions, classifications and accounting rules for drawing up the accounts of the Member States for the statistical requirements of the European Community, in order to obtain comparable results between Member States.
- (2) The Inter-Secretariat Working Group on National Accounts (ISWGNA) has revised and the United Nations has published in 2000 the revised classifications of expenditure according to purpose, in particular the Classification of the Functions of Government (COFOG), the Classification of Individual Consumption According

to Purpose (COICOP) and the Classification of the Purposes of Non-Profit Institutions Serving Households (COPNI).

- (3) The classifications in Regulation (EC) No 2223/96 should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee ⁽³⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Annex A 'European System of Accounts ESA 1995' to Regulation (EC) No 2223/96 is amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 23 January 2002.

For the Commission
Pedro SOLBES MIRA
Member of the Commission

⁽¹⁾ OJ L 310, 30.11.1996, p. 1.

⁽²⁾ OJ L 344, 28.12.2001, p. 1.

⁽³⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX

Annex A to Regulation (EC) No 2223/96 is amended as follows:

(a) In Chapter 3, section 3.85 is replaced by the following:

'3.85. For the goods and services provided by government units, the borderline between individual and collective goods and services is drawn on the basis of the Classification of the Functions of Government (COFOG).

By convention, all government final consumption expenditure under each of the following headings should be treated as expenditures on individual consumption:

(a) 7.1 Medical products, appliances and equipment

7.2 Outpatient services

7.3 Hospital services

7.4 Public health services

(b) 8.1 Recreational and sporting services

8.2 Cultural services

(c) 9.1 Pre-primary and primary education

9.2 Secondary education

9.3 Post-secondary non-tertiary education

9.4 Tertiary education

9.5 Education not definable by level

9.6 Subsidiary services to education

(d) 10.1 Sickness and disability

10.2 Old age

10.3 Survivors

10.4 Family and children

10.5 Unemployment

10.6 Housing

10.7 Social exclusion n.e.c.

Alternatively individual consumption expenditure of general government corresponds to division 14 of the COICOP, which includes the following groups:

14.1 Housing (equivalent to COFOG group 10.6)

14.2 Health (equivalent to COFOG groups 7.1 to 7.4)

14.3 Recreation and culture (equivalent to COFOG groups 8.1 and 8.2)

14.4 Education (equivalent to COFOG groups 9.1 to 9.6)

14.5 Social protection (equivalent to COFOG groups 10.1 to 10.5 and group 10.7).

The collective consumption expenditure is the remainder of the government final consumption expenditure.

According to COFOG, it consists in particular of:

(a) General public services (division 1)

(b) Defence (division 2)

(c) Public order and safety (division 3)

(d) Economic affairs (division 4)

(e) Environmental protection (division 5)

(f) Housing and community amenities (division 6)

(g) General administration, regulation, dissemination of general information and statistics (all divisions)

(h) Research and development (all divisions).'

(b) Annex IV 'Classifications and accounts' is amended as follows:

- (i) The part entitled 'CLASSIFICATION OF INDIVIDUAL CONSUMPTION BY PURPOSE (COICOP)' is replaced by the following:

'CLASSIFICATION OF INDIVIDUAL CONSUMPTION BY PURPOSE (COICOP)

1. **Food and non-alcoholic beverages**
 - 1.1. Food
 - 1.2. Non-alcoholic beverages
2. **Alcoholic beverages, tobacco and narcotics**
 - 2.1. Alcoholic beverages
 - 2.2. Tobacco
 - 2.3. Narcotics
3. **Clothing and footwear**
 - 3.1. Clothing
 - 3.2. Footwear
4. **Housing, water, electricity, gas and other fuels**
 - 4.1. Actual rentals for housing
 - 4.2. Imputed rentals for housing
 - 4.3. Maintenance and repair of the dwelling
 - 4.4. Water supply and miscellaneous services relating to the dwelling
 - 4.5. Electricity, gas and other fuels
5. **Furnishings, household equipment and routine households maintenance**
 - 5.1. Furniture and furnishings, carpets and other floor coverings
 - 5.2. Household textiles
 - 5.3. Household appliances
 - 5.4. Glassware, tableware and household utensils
 - 5.5. Tools and equipment for house and garden
 - 5.6. Goods and services for routine household maintenance
6. **Health**
 - 6.1. Medical products, appliances and equipment
 - 6.2. Outpatient services
 - 6.3. Hospital services
7. **Transport**
 - 7.1. Purchase of vehicles
 - 7.2. Operation of personal transport equipment
 - 7.3. Transport services
8. **Communication**
 - 8.1. Postal services
 - 8.2. Telephone and fax equipment
 - 8.3. Telephone and fax services
9. **Recreation and culture**
 - 9.1. Audio-visual, photographic and information processing equipment
 - 9.2. Other major durables for recreation and culture
 - 9.3. Other recreational items and equipment, gardens and pets
 - 9.4. Recreational and cultural services
 - 9.5. Newspapers, books and stationery
 - 9.6. Package holidays

10. Education

- 10.1. Pre-primary and primary education
- 10.2. Secondary education
- 10.3. Post-secondary non-tertiary education
- 10.4. Tertiary education
- 10.5. Education not definable by level

11. Restaurants and hotels

- 11.1. Catering services
- 11.2. Accommodation services

12. Miscellaneous goods and services

- 12.1. Personal care
- 12.2. Prostitution
- 12.3. Personal effects n.e.c.
- 12.4. Social protection
- 12.5. Insurance
- 12.6. Financial services n.e.c.
- 12.7. Other services n.e.c.

13. Individual consumption expenditure of non-profit institutions serving households (NPISHs)

- 13.1. Housing
- 13.2. Health
- 13.3. Recreation and culture
- 13.4. Education
- 13.5. Social protection
- 13.6. Other services

14. Individual consumption expenditure of general government

- 14.1. Housing
- 14.2. Health
- 14.3. Recreation and culture
- 14.4. Education
- 14.5. Social protection'

(ii) The part entitled 'CLASSIFICATION OF THE FUNCTIONS OF THE GOVERNMENT (COFOG)' is replaced by the following:

'CLASSIFICATION OF THE FUNCTIONS OF THE GOVERNMENT (COFOG)**1. General public services**

- 1.1. Executive and legislative organs, financial and fiscal affairs, external affairs
- 1.2. Foreign economic aid
- 1.3. General services
- 1.4. Basic research
- 1.5. R & D general public services
- 1.6. General public services n.e.c.
- 1.7. Public debt transactions
- 1.8. Transfers of a general character between different levels of government

2. Defence

- 2.1. Military defence
- 2.2. Civil defence
- 2.3. Foreign military aid
- 2.4. R & D defence
- 2.5. Defence n.e.c.

3. Public order and safety

- 3.1. Police services
- 3.2. Fire-protection services
- 3.3. Law courts
- 3.4. Prisons
- 3.5. R & D public order and safety
- 3.6. Public order and safety n.e.c.

4. Economic affairs

- 4.1. General economic, commercial and labour affairs
- 4.2. Agriculture, forestry, fishing and hunting
- 4.3. Fuel and energy
- 4.4. Mining, manufacturing and construction
- 4.5. Transport
- 4.6. Communication
- 4.7. Other industries
- 4.8. R & D economic affairs
- 4.9. Economic affairs n.e.c.

5. Environmental protection

- 5.1. Waste management
- 5.2. Waste water management
- 5.3. Pollution abatement
- 5.4. Protection of biodiversity and landscape
- 5.5. R & D environmental protection
- 5.6. Environmental protection n.e.c.

6. Housing and community amenities

- 6.1. Housing development
- 6.2. Community development
- 6.3. Water supply
- 6.4. Street lighting
- 6.5. R & D housing and community amenities
- 6.6. Housing and community amenities n.e.c.

7. Health

- 7.1. Medical products, appliances and equipment
- 7.2. Outpatient services
- 7.3. Hospital services
- 7.4. Public health services
- 7.5. R & D health
- 7.6. Health n.e.c.

8. Recreation, culture and religion

- 8.1. Recreational and sporting services
- 8.2. Cultural services
- 8.3. Broadcasting and publishing services
- 8.4. Religious and other community services
- 8.5. R & D recreation, culture and religion
- 8.6. Recreation, culture and religion n.e.c.

9. Education

- 9.1. Pre-primary and primary education
- 9.2. Secondary education
- 9.3. Post-secondary non-tertiary education
- 9.4. Tertiary education
- 9.5. Education not definable by level
- 9.6. Subsidiary services to education
- 9.7. R & D education
- 9.8. Education n.e.c.

10. Social protection

- 10.1. Sickness and disability
- 10.2. Old age
- 10.3. Survivors
- 10.4. Family and children
- 10.5. Unemployment
- 10.6. Housing
- 10.7. Social exclusion n.e.c.
- 10.8. R & D social protection
- 10.9. Social protection n.e.c.'

(iii) After the part entitled 'CLASSIFICATION OF THE FUNCTIONS OF THE GOVERNMENT (COFOG)', the following part is inserted:

'CLASSIFICATION OF THE PURPOSES OF NON-PROFIT INSTITUTIONS SERVING HOUSEHOLDS (COPNI)**1. Housing**

- 1.0. Housing

2. Health

- 2.1. Medical products, appliances and equipment
- 2.2. Outpatient services
- 2.3. Hospital services
- 2.4. Public health services
- 2.5. R & D health
- 2.6. Other health services

3. Recreation and culture

- 3.1. Recreational and sporting services
- 3.2. Cultural services

4. Education

- 4.1. Pre-primary and primary education
- 4.2. Secondary education
- 4.3. Post-secondary non-tertiary education
- 4.4. Tertiary education
- 4.5. Education not definable by level
- 4.6. R & D education
- 4.7. Other educational services

5. Social protection

- 5.1. Social protection services
- 5.2. R & D social protection

6. **Religion**

6.0. Religion

7. **Political parties, labour and professional organisations**

7.1. Services of political parties

7.2. Services of labour organisations

7.3. Services of professional organisations

8. **Environmental protection**

8.1. Environmental protection services

8.2. R & D environmental protection

9. **Services n.e.c.**

9.1. Services n.e.c.

9.2. R & D services n.e.c.'

COMMISSION REGULATION (EC) No 114/2002**of 23 January 2002****determining the extent to which applications submitted in January 2002 for import licences for the tariff quota for beef and veal provided for in Council Regulation (EC) No 2475/2000 for the Republic of Slovenia can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2673/2000 of 6 December 2000 laying down detailed rules for the application of the tariff quota for beef and veal provided for in Council Regulation (EC) No 2475/2000 for the Republic of Slovenia ⁽¹⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) Article 2(1) of Regulation (EC) No 2673/2000 fixes the quantity of fresh or chilled beef and veal originating in Slovenia which may be imported under special conditions from 1 January to 30 June 2002. The quantity of meat for which import licences have been submitted is such that applications may be granted in full.
- (2) Article 2(2) of Regulation (EC) No 2673/2000 lays down that if, during the year of importation in question, the quantity for which licence applications are submitted for the first period specified in the preceding recital is less than the quantity available, the remaining quantity is

to be added to the quantity available for the following period. In view of the quantity remaining for the first period, the quantity available for the country concerned for the second period, from 1 July to 31 December 2002, should be specified,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences shall be granted for the full quantities covered by applications submitted for the quota referred to in Regulation (EC) No 2673/2000 for the period 1 January to 30 June 2002.
2. The quantity available for the period referred to in Article 2(1) of Regulation (EC) No 2673/2000 running from 1 July to 31 December 2002 shall be 10 420 t.

Article 2

This Regulation shall enter into force on 24 January 2002.

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

Done at Brussels, 23 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 306, 7.12.2000, p. 19.

COMMISSION REGULATION (EC) No 115/2002**of 23 January 2002****determining the percentage of quantities which may be allowed in respect of import licence applications lodged in January 2002 under tariff quotas for beef and veal provided for in Regulation (EC) No 1279/98 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, Bulgaria and Romania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Commission Regulation (EC) No 1279/98 of 19 June 1998, laying down rules for the application of the tariff quotas for beef and veal provided for by Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, the Republic of Bulgaria and Romania ⁽¹⁾, amended by Regulation (EC) No 2857/2000 ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

(1) Articles 1 and 2 of Regulation (EC) No 1279/98 fix the quantities of certain beef and veal products originating in Poland, Hungary, the Czech Republic, Slovakia, Romania and Bulgaria, which may be imported on special terms in respect of the period 1 January to 31 March 2002. The quantities of certain beef and veal products originating in Poland, Hungary, the Czech Republic, Slovakia and Romania covered by import licence applications submitted are such that applications may be accepted in full.

(2) Article 2 of Regulation (EC) No 1279/98 states that if for the quota period the quantities for which applications for import licences have been submitted for the first, second or third period specified in the preceding subparagraph are less than the quantities available, the remaining quantities are to be added to the quantities in respect of the following period. Taking into account the quantities remaining from the third period, the quantities available for the six countries concerned for the fourth period running from 1 April to 30 June 2002 should accordingly be determined,

1. The following percentages of quantities covered by import licence applications submitted in respect of the period 1 January to 31 March 2002 under the quotas referred to in Regulation (EC) No 1279/98 may be allowed:

- (a) 100 % of quantities covered by applications in respect of products falling within CN codes 0201 and 0202 originating in Hungary, the Czech Republic and Slovakia;
- (b) 100 % of quantities covered by applications in respect of products falling within CN codes 0201, 0202, 1602 50 31, 1602 50 39 and 1602 50 80 originating in Romania;
- (c) 100 % of quantities covered by applications in respect of products falling within CN codes 0201, 0202, and 1602 50 originating in Poland.

2. The quantities available for the period referred to in Article 2 of Regulation (EC) No 1279/98 running from 1 April to 30 June 2002 shall amount to:

- (a) beef and veal falling within CN codes 0201 and 0202:
 - 10 430 t for meat originating in Hungary,
 - 3 055 t for meat originating in the Czech Republic,
 - 3 480 t for meat originating in Slovakia,
 - 250 t for meat originating in Bulgaria;
- (b) 4 853,288 t for beef and veal falling within CN codes 0201 and 0202 originating in Poland, or 2 267,891 t for processed products falling within CN code 1602 50 originating in Poland;
- (c) 2 615 t for beef and veal products falling within CN codes 0201, 0202, 1602 50 31, 1602 50 39 and 1602 50 80 originating in Romania.

Article 2

⁽¹⁾ OJ L 176, 20.6.1998, p. 12.

⁽²⁾ OJ L 332, 28.12.2000, p. 55.

This Regulation shall enter into force on 24 January 2002.

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

Done at Brussels, 23 January 2002.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 116/2002**of 23 January 2002****fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8(1) of Regulation (EEC) No 2771/75 provides that the difference between prices in international trade for the products listed in Article 1(1) of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in the Annex to that Regulation. Whereas Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1563/2001 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EEC) No 2771/75.
- (2) In accordance Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for a

period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

- (3) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.
- (4) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1(1) of Regulation (EEC) No 2771/75, exported in the form of goods listed in the Annex I to Regulation (EEC) No 2771/75, are hereby fixed as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 January 2002.

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

Done at Brussels, 23 January 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 208, 1.8.2001, p. 8.

ANNEX

to the Commission Regulation of 23 January 2002 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description	Destination (¹)	Rate of refund
0407 00	Birds' eggs, in shell, fresh, preserved or cooked:		
	– Of poultry:		
0407 00 30	– – Other:		
	a) On exportation of ovalbumin of CN codes 3502 11 90 and 3502 19 90	02	7,00
		03	11,00
		04	3,50
	b) On exportation of other goods	01	3,50
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter:		
	– Egg yolks:		
0408 11	– – Dried:		
ex 0408 11 80	– – – Suitable for human consumption:		
	not sweetened	01	20,00
0408 19	– – Other:		
	– – – Suitable for human consumption:		
ex 0408 19 81	– – – – Liquid:		
	not sweetened	01	10,00
ex 0408 19 89	– – – – Frozen:		
	not sweetened	01	10,00
	– Other:		
0408 91	– – Dried:		
ex 0408 91 80	– – – Suitable for human consumption:		
	not sweetened	01	33,00
0408 99	– – Other:		
ex 0408 99 80	– – – Suitable for human consumption:		
	not sweetened	01	8,00

(¹) The destinations are as follows:

01 Third countries,

02 Kuwait, Bahrain, Oman, Qatar, United Arab Emirates, Yemen, Hong Kong SAR and Russia,

03 South Korea, Japan, Malaysia, Thailand, Taiwan, the Philippines and Egypt,

04 All destinations except Switzerland and those of 02 and 03.

COMMISSION REGULATION (EC) No 117/2002
of 23 January 2002
fixing the export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) The present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the egg sector.

(3) It follows from applying these rules and criteria to the present situation on the market in eggs that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time.

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of codes of products for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2771/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 January 2002.

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

Done at Brussels, 23 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

ANNEX

to the Commission Regulation of 23 January 2002 fixing the export refunds on eggs

Product code	Destination	Unit of measurement	Amount of refund
0407 00 11 9000	A02	EUR/100 pcs	2,15
0407 00 19 9000	A02	EUR/100 pcs	1,00
0407 00 30 9000	E01	EUR/100 kg	7,00
	E03	EUR/100 kg	11,00
	E05	EUR/100 kg	3,50
0408 11 80 9100	E04	EUR/100 kg	20,00
0408 19 81 9100	E04	EUR/100 kg	10,00
0408 19 89 9100	E04	EUR/100 kg	10,00
0408 91 80 9100	E06	EUR/100 kg	33,00
0408 99 80 9100	E04	EUR/100 kg	8,00

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

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are defined as follows:

E01 Kuwait, Bahrain, Oman, Qatar, the United Arab Emirates, Yemen, Hong Kong SAR and Russia

E03 South Korea, Japan, Malaysia, Thailand, Taiwan, the Philippines and Egypt

E04 all destinations except Switzerland and Estonia

E05 all destinations except Switzerland, Lithuania and those of E01 and E03

E06 all destinations except Switzerland, Estonia and Lithuania.

COMMISSION REGULATION (EC) No 118/2002
of 23 January 2002
fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending
Regulation (EC) No 1484/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁴⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁵⁾, as last amended by Regulation (EC) No 2916/95, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 2420/2001 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.
- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 24 January 2002.

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

Done at Brussels, 23 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

⁽³⁾ OJ L 282, 1.11.1975, p. 77.

⁽⁴⁾ OJ L 305, 19.12.1995, p. 49.

⁽⁵⁾ OJ L 282, 1.11.1975, p. 104.

⁽⁶⁾ OJ L 145, 29.6.1995, p. 47.

⁽⁷⁾ OJ L 327, 12.12.2001, p. 33.

ANNEX

to the Commission Regulation of 23 January 2002 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens”, or otherwise presented, frozen	102,2	5	01
0207 14 10	Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen	193,0	34	01
		203,2	29	02
		183,7	38	03
		260,9	12	04
		294,9	2	05
0207 14 60	Chicken legs and cuts thereof, frozen	109,0	10	01
0207 27 10	Boneless cuts of turkeys, frozen	262,0	10	01
1602 32 11	Preparations of uncooked fowl of the species <i>Gallus domesticus</i>	191,2	29	01
		202,2	25	02

⁽¹⁾ Origin of imports:

- 01 Brazil
- 02 Thailand
- 03 China
- 04 Argentina
- 05 Chile.

COMMISSION REGULATION (EC) No 119/2002
of 23 January 2002
opening tariff quotas for the year 2002 for imports into the European Community of products
originating in Lithuania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2580/2000 ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Council Decision 98/677/EC of 18 May 1998 on the conclusion of a Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements ⁽³⁾, and in particular Article 2 of that Protocol,

Whereas:

(1) Protocol 2 on trade in processed agricultural products between the Community and the Republic of Lithuania, as amended by the Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements ⁽⁴⁾, sets out in its Annex I the annual tariff quotas for imports of products originating in Lithuania.

(2) Commission Regulation (EC) No 2906/2000 of 28 December 2000 opening tariff quotas for the year 2001 for imports into the European Community of products originating in Estonia, Latvia and Lithuania ⁽⁵⁾ set out in

its Annex II the quotas for products originating in Lithuania for the period from January 2001 to 31 December 2001. These quotas should therefore be opened in accordance with the aforementioned Protocol 2 for the period from 1 January 2002 to 31 December 2002.

- (3) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁶⁾, as last amended by Regulation (EC) No 993/2001 ⁽⁷⁾, consolidated the arrangements for managing the tariff quotas to be used in chronological order of the dates of acceptance of the declarations for release for free circulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

The annual quotas for products originating in Lithuania set out in the Annex to this Regulation are hereby opened from 1 January 2002 to 31 December 2002 under the conditions set out in the said Annex.

Article 2

The Community tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with the provisions of Articles 308a to 308c of Regulation (EEC) No 2454/93.

Article 3

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

It shall apply with effect from 1 January 2002.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 298, 25.11.2000, p. 5.

⁽³⁾ OJ L 321, 30.11.1998, p. 1.

⁽⁴⁾ OJ L 321, 30.11.1998, p. 3.

⁽⁵⁾ OJ L 336, 30.12.2000, p. 54.

⁽⁶⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁷⁾ OJ L 141, 28.5.2001, p. 1.

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

Done at Brussels, 23 January 2002.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

Serial No	CN code	Description	Quota for 2002 (tonnes)	Rate of duty applicable
09.6501	1704 90 71 1704 90 75	Boiled sweets, whether or not filled Caramels	560	0 + RAC ⁽¹⁾
09.6503	1806 90	Chocolate and other food preparations containing cocoa falling within CN codes 1806 90 11 to 1806 90 90	700	0 + RAC ⁽¹⁾
09.6534	2402 20 90	Cigarettes containing tobacco but not containing cloves	56	28,8 %

⁽¹⁾ RAC = reduced agricultural components (calculated in accordance with the basic amounts set out in Protocol 2 to the Agreement) applicable within the quantitative limits of the quotas. Such reduced agricultural components are subject to the maximum duty laid down in the Common Customs Tariff, if any.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 January 2002

amending Decision 92/452/EEC as regards the lists of embryo collection teams and embryo production teams approved in third countries for export of bovine embryos to the Community

(notified under document number C(2002) 84)

(Text with EEA relevance)

(2002/46/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species ⁽¹⁾, as last amended by Commission Decision 94/113/EC ⁽²⁾, and in particular Article 8 thereof,

Whereas:

- (1) The competent veterinary services of Canada and the United States have forwarded requests for addition and amendments to the list, established by Commission Decision 92/452/EEC ⁽³⁾, as last amended by Decision 2001/728/EC ⁽⁴⁾ of teams officially approved in their territories for the exports of embryos of domestic animals of the bovine species to the Community.
- (2) Guarantees regarding compliance with the requirements specified in Article 8 of Directive 89/556/EEC have been provided to the Commission by the competent veterinary services of the countries concerned, and the collection teams concerned have been officially approved for exports to the Community.
- (3) Decision 92/452/EEC should therefore be amended accordingly.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

⁽¹⁾ OJ L 302, 19.10.1989, p. 1.

⁽²⁾ OJ L 53, 24.2.1994, p. 53.

⁽³⁾ OJ L 250, 29.8.1992, p. 40.

⁽⁴⁾ OJ L 273, 16.10.2001, p. 24.

HAS ADOPTED THIS DECISION:

Article 1

In the Annex to Commission Decision 92/452/EEC:

1. The following lines are added to the lines concerning Canadian teams:

CA		E 022		324 Notre Dame Notre-Dame du Bon-Conseil Quebec JOC 1AO	Dr René Bergeron
CA		E 1531		39 Barker Lane Wicklow New Brunswick E7L 3S4	Dr Conrad C. Anderson

2. The lines concerning the Canadian team E 549 is replaced by the following:

CA		E 549		Abbotsford Veterinary Clinic PO box 524 Unit 200-33648 McDougall Avenue Abbotsford British Columbia V2S 5Z5	Dr R. Vanderval Dr Martin Darrow
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3. The line concerning the US team No 96IA086 E 608 is replaced by the following:

US		96IA086 E 608		Trans Ova Genetics — Iowa Division 2938 380th Street Sioux Centre, IA — Montana Division 9033 Walker Road Belgarde, MT	Drs Chjarles S. Gue III (Chuck) Paul Vanroekel Daryl Funk Julie Koster
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Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 January 2002.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 23 January 2002
amending its Rules of Procedure
(notified under document number C(2002) 99)

(2002/47/EC, ECSC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 218(2) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 16 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

Having regard to the Treaty on European Union, and in particular Article 28(1) and Article 41(1) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The provisions on document management, the text of which is annexed to this Decision, are hereby added to the Commission's Rules of Procedure ⁽¹⁾ as an annex.

Article 2

The Commission's Decision of 18 March 1986 on document management ⁽²⁾ is repealed.

Article 3

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

Done at Brussels, 23 January 2002.

For the Commission

The President

Romano PRODI

⁽¹⁾ OJ L 308, 8.12.2000, p. 26.

⁽²⁾ SEC(86) 388.

ANNEX

PROVISIONS ON DOCUMENT MANAGEMENT

Whereas:

- (1) All the Commission's activities and decisions in the political, legislative, technical, financial and administrative fields ultimately lead to the production of documents.
- (2) Those documents must be managed on the basis of rules applicable to all Directorates-General and equivalent departments, as they form a direct link with activities in progress and also reflect the Commission's past activities in its dual capacity as a European institution and European public administration.
- (3) Those standard rules must ensure that the Commission is able, at any time, to provide information on the matters for which it is accountable. The documents and files kept by a Directorate-General or equivalent department must therefore preserve the institution's memory, facilitate the exchange of information, provide proof of operations carried out and meet the department's legal obligations.
- (4) Implementation of the abovementioned rules requires the establishment of a sound and reliable organisational structure within each Directorate-General or equivalent department, at interdepartmental level and at Commission level.
- (5) The establishment and implementation of a filing plan associated with a common nomenclature for all the Commission's departments, which will form part of the institution's activity-based management, will make it possible to organise files and improve openness and access to documents.
- (6) Efficient document management is an essential prerequisite for an effective policy of public access to Commission documents. The establishment of registers containing the references of documents drawn up or received by the Commission will help citizens to exercise their right of access,

*Article 1***Definitions**

For the purposes of these provisions:

- *document* shall mean any content drawn up or received by the Commission concerning a matter relating to the policies, activities and decisions falling within the institution's competence and in the framework of its official tasks, in whatever medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording),
- *file* shall mean the core around which the documents are organised in line with the institution's activities, for reasons of proof, justification or information and to guarantee efficiency in the work.

*Article 2***Object**

These provisions set out the principles for document management.

Document management must ensure:

- the due creation, receipt and storage of documents,
- the identification of each document by means of appropriate signs enabling it to be filed, searched for and easily referred to,
- the preservation of the institution's memory, retention of proof of activities undertaken and fulfilment of the department's legal obligations,
- easy exchange of information,
- compliance with the Commission's obligations as regards openness.

*Article 3***Standard rules**

Documents shall undergo the following operations:

- registration,
- filing,

- storage,
- transfer of files to the Historical Archives.

These operations shall be carried out in accordance with a set of standard rules, which shall apply uniformly to all the Commission's Directorates-General and equivalent departments.

Article 4

Registration

As soon as a document is received or formally drawn up within a department, in whatever medium, it shall be analysed with a view to determining what is to be done with it and thus whether or not it must be registered.

A document drawn up or received by a Commission department must be registered if it contains important information which is not short-lived and/or may involve action or follow-up by the Commission or one of its departments. If the document is drawn up within the Commission, it shall be registered by the originating department in its own system. If the document is received by the Commission, it shall be registered by the recipient department. Any subsequent processing of documents registered in this way shall refer to their original registration.

Registration must make it possible clearly and definitely to identify the documents drawn up or received by the Commission or one of its departments so that they can be traced throughout their life cycle.

Registers shall be kept containing document references.

Article 5

Filing

Directorates-General and equivalent departments shall draw up a filing plan adapted to their specific needs.

This filing plan, which shall be accessible by computer, shall be associated with a common nomenclature defined by the Secretariat-General for all the Commission's departments. This nomenclature shall form part of the Commission's activity-based management.

Registered documents shall be organised in files. For each matter falling within the competence of the Directorate-General or equivalent department, a single official file shall be constituted. Each official file must be complete and must correspond to the activities of the department on the matter in question.

The creation of a file and its attachment to the filing plan of a Directorate-General or equivalent department shall be the responsibility of the department responsible for the activity covered by the file in accordance with practical arrangements to be set out in each Directorate-General or equivalent department.

Article 6

Storage

Each Directorate-General or equivalent department shall ensure the physical protection and the short- and medium-term accessibility of the documents for which it is responsible, and must be in a position to produce or reconstruct the files to which they belong.

The administrative rules and legal obligations shall determine the minimum period for which a document must be kept.

Each Directorate-General or equivalent department shall determine its internal organisational structure for the storage of its files. The minimum storage period within its departments shall take account of a common list, drawn up in accordance with the implementing rules referred to in Article 12, for the whole of the Commission.

Article 7

Appraisal and transfer to the Historical Archives

Without prejudice to the minimum storage periods referred to in Article 6, the document management centre(s) referred to in Article 9 shall carry out, at regular intervals, in cooperation with the departments responsible for the files, an appraisal of the documents and files which could be transferred to the Commission's Historical Archives. After evaluating the proposals, the Historical Archives may refuse the transfer of documents or files. Reasons shall be given for any decision refusing transfer and the department concerned shall be informed of such decision.

Files or documents which it is no longer considered necessary for the departments to keep shall be transferred no later than fifteen years after their production, by the document management centre and under the authority of the Directorate-General, to the Commission's Historical Archives. These files or documents shall then be evaluated in accordance with the rules laid down in the implementing rules referred to in Article 12 and intended to separate those which must be stored from those which have no administrative or historical value.

The Historical Archives shall have special repositories for storing the files and documents transferred in this way. On request, they shall make the documents and files available to the originating Directorate-General or equivalent department.

Article 8

Classified documents

Classified documents shall be processed in accordance with the rules in force on security.

Article 9

Document management centres

Each Directorate-General or equivalent department shall, while taking its structure and constraints into account, put in place or maintain one or more document management centres.

The task of the document management centres shall be to ensure that the documents drawn up or received in their Directorate-General or equivalent department are managed in accordance with the rules.

Article 10

Document management officers

Each Director-General or Head of Department shall designate a document management officer.

For the purpose of setting up a modern and efficient document and records management system, the task of the document management officer shall be to:

- identify the types of document and file specific to the fields of activity of the Directorate-General or equivalent department,
- draw up and update the inventory of the existing specific databases and systems,
- draw up the filing plan of the Directorate-General or equivalent department,
- draw up rules and procedures specific to the Directorate-General or equivalent department which will be used for document and file management, and to ensure that they are applied,
- organise, within the Directorate-General or equivalent department, training for the staff in charge of the implementation, control and monitoring of the management rules laid down in these provisions.

The document management officer shall ensure horizontal coordination between the document management centre(s) and the other departments concerned.

Article 11

Interdepartmental group

An interdepartmental group of document management officers shall be set up. It shall be chaired by the Secretariat-General and its task shall be to:

- ensure the correct and uniform application of these provisions within departments,
- deal with any issues which may arise from their application,
- contribute to the preparation of the implementing rules referred to in Article 12,
- relay the requirements of Directorates-General and equivalent departments as regards training and support measures.

The interdepartmental group shall be convened by its chairman, either on the chairman's initiative or at the request of a Directorate-General or equivalent department.

Article 12

Implementing rules

Rules for the implementation of these provisions shall be adopted and regularly updated by the Secretary-General, in agreement with the Director-General for Personnel and Administration, acting on a proposal from the interdepartmental group of document management officers.

The updating shall, in particular, take account of:

- the development of new information and communication technologies,

- changes in documentary sciences and the results of Community and international research, including the emergence of new standards in the field,
- the Commission's obligations regarding openness and public access to documents and document registers,
- developments in the standardisation and presentation of the Commission's documents and those of its departments,
- the rules laid down concerning the evidential value of electronic documents.

Article 13

Implementation in the departments

Each Director-General or Head of Department shall put in place the necessary organisational, administrative and physical structure and provide the staff required for the implementation of these provisions and the implementing rules by his departments.

Article 14

Information, training and support

The Secretariat-General and the Directorate-General for Personnel and Administration shall put in place the necessary information, training and support measures to ensure the implementation and application of these provisions within the Directorates-General and equivalent departments.

When determining training measures they shall take due account of the training and support requirements of Directorates-General and equivalent departments as relayed by the interdepartmental group of document management officers.

Article 15

Compliance with the provisions

The Secretariat-General shall be responsible for ensuring compliance with these provisions in coordination with the Directors-General and Heads of Department.

COMMISSION DECISION
of 23 January 2002
amending for the seventh time Decision 2001/740/EC concerning certain protection measures with
regard to foot-and-mouth disease in the United Kingdom

(notified under document number C(2002) 292)

(Text with EEA relevance)

(2002/48/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) Commission Decision 2001/740/EC ⁽⁴⁾, as last amended by Decision 2002/37/EC ⁽⁵⁾, concerns certain protection measures with regard to foot-and-mouth disease in the United Kingdom.
- (2) The Commission adopted Decision 2001/304/EC ⁽⁶⁾, as last amended by Decision 2001/345/EC ⁽⁷⁾, on marking and use of certain animal products in relation to Decision 2001/172/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom. In accordance with this Decision, which came into force on 23 April 2001, a round stamp has been applied to meat and meat products not eligible for dispatch to destinations outside Great Britain under the terms of Decisions 2001/172/EC, 2001/356/EC and 2001/740/EC.
- (3) The last outbreak of foot-and-mouth disease in Great Britain was recorded on 30 September 2001, more than 3 months ago, and the serological surveillance carried out in order to substantiate the release of disease related restrictions has been completed throughout Great Britain.

- (4) The improved animal health situation now allows to withdraw the majority of restrictions in particular those applicable to dispatch from Great Britain of products of animal origin and most of the live animals of susceptible species.
- (5) However, the situation still requires to maintain restrictions on the movement of live sheep, and strict controls on the dispatch of meat not eligible for trade which was derived from animals of susceptible species slaughtered between the date of 1 February, the date of possible virus introduction, and 19 October 2001, the date of adoption of Decision 2001/740/EC allowing under certain conditions the dispatch of certain meats from certain areas.
- (6) Decision 2001/740/EC should be amended accordingly.
- (7) The situation should be reviewed at the meeting of the Standing Veterinary Committee scheduled for 5 and 6 February 2002 and the measures adapted where necessary.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2001/740/EC is amended as follows:

1. Article 1(2)(2.2.) is replaced by the following:

- 2.2. Without prejudice to the provisions of Council Directive 64/432/EEC and of Council Decision 98/256/EC, and to the restrictions on movement of susceptible animals within and through Great Britain applied by the competent authorities of the United Kingdom, the provisions in paragraph 1 shall not apply to dispatch of bovine and porcine animals from areas listed in Annex II.'

⁽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 277, 20.10.2001, p. 30.

⁽⁵⁾ OJ L 15, 17.1.2002, p. 34.

⁽⁶⁾ OJ L 104, 13.4.2001, p. 6.

⁽⁷⁾ OJ L 122, 3.5.2001, p. 31.

2. Article 2 is replaced by the following:

'Article 2

1. The United Kingdom shall not dispatch meats as defined in paragraph 2 of the bovine, ovine, caprine and porcine species and other biungulates coming from or obtained from animals originating in Great Britain.

2. Meats referred to in paragraph 1 includes "fresh meat" as defined in Directives 64/433/EEC or 91/495/EEC, and "minced meat and meat preparations" as defined in Council Directive 94/65/EC.

3. Provided that the meat is clearly identified, and has been transported and stored since the date of production separately from meats not eligible, in accordance with the provisions of this Decision, for dispatch outside the areas listed in Annex II, the prohibition provided for in paragraph 1 shall not apply to meats referred to in paragraph 2 bearing the health mark in accordance with Chapter XI of Annex I to Council Directive 64/433/EEC or, in the case of meat from other biungulates, the health mark provided for in Chapter III of Annex I to Directive 91/495/EEC, and which:

- (a) was obtained before 1 February 2001, or
- (b) derived from animals slaughtered or, in the case of meat obtained from wild game of species susceptible to foot-and-mouth disease, killed in areas listed in Annex II after the date of 19 October 2001, or
- (c) derived from animals reared and slaughtered or, in the case of meat obtained from wild game of species susceptible to foot-and-mouth disease, killed outside the areas listed in Annex II.

4. The control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities.

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

"Meat conforming to Commission Decision 2001/740/EC of 19 October 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom".

3. Article 3 is replaced by the following:

'Article 3

1. The United Kingdom shall not dispatch meat products of animals of the bovine, ovine, caprine and porcine species and of other biungulates coming from Great Britain, or prepared using meat obtained from animals susceptible to foot-and-mouth disease originating in this part of the United Kingdom.

2. The prohibition provided for in paragraph 1 shall not apply to meat products meeting the public health requirements of Directive 77/99/EEC and which:

- (a) are either made from meats described in Article 2(3), or
- (b) have undergone one of the treatments laid down in Article 4(1) of Council Directive 80/215/EEC, or have been subjected during preparation uniformly throughout the substance to a pH value of less than 6.

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

"Meat products conforming to Commission Decision 2001/740/EC of 19 October 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom."

4. Derogating from the provisions in paragraph 3 it shall be sufficient, in the case of meat products which conform to the requirements of paragraph 2 and have been processed in an establishment operating HACCP ⁽¹⁾ and an auditable standard operating procedure which ensures that standards for treatment are met and recorded, that compliance with the conditions required for the treatment laid down in paragraph 2 is stated in the commercial document accompanying the consignment, endorsed in accordance with Article 9(1).

5. Derogating from the provisions in paragraph 4 it shall be sufficient in the case of meat products heat treated in hermetically sealed containers so as to ensure that they are shelf stable, to be accompanied by a commercial document stating the heat treatment applied.'

4. A new subparagraph is added to Article 6(3) as follows:

'(d) fresh and frozen bovine and porcine semen produced in accordance with Directives 88/407/EEC and 90/429/EEC respectively after the date of 15 January 2002 in areas listed in Annex II.'

5. Article 12 is deleted.

6. The date of 28 February 2002 in Article 16 is replaced by '31 March 2002'.

7. The words 'United Kingdom, except Northern Ireland and the Isle of Man' in Annex I and the entire Annex III are deleted.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 January 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ HACCP = Hazard Analysis and Critical Control Points.

COMMISSION DECISION

of 23 January 2002

amending for the second time Decision 2001/304/EC on marking and use of certain animal products in relation to Decision 2001/172/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom

(notified under document number C(2002) 293)

(Text with EEA relevance)

(2002/49/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,

Having regard to Council Directive 64/433/EEC of 26 June 1964 on health conditions for the production and marketing of fresh meat ⁽⁴⁾, as last amended by Directive 95/23/EC ⁽⁵⁾, and in particular Article 6(1)(f) thereof,

Having regard to Council Directive 77/99/EEC of 21 December 1976 on health problems affecting the production and marketing of meat products and certain other products of animal origin ⁽⁶⁾, as last amended by Council Directive 97/76/EC ⁽⁷⁾, and in particular Article 3(A)(7), second indent thereof,

Whereas:

- (1) Following the reports of outbreaks of foot-and-mouth disease in the United Kingdom, the Commission adopted Decision 2001/740/EC of 19 October 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom ⁽⁸⁾, as last amended by Decision 2002/37/EC ⁽⁹⁾.

- (2) Commission Decision 2001/172/EC ⁽¹⁰⁾ and subsequently Decision 2001/356/EC ⁽¹¹⁾ and 2001/740/EC restricted the dispatch from Great Britain of fresh meat of susceptible animals and meat products produced from such meat unless certain conditions are complied with.

- (3) The Commission therefore adopted Decision 2001/304/EC of 11 April 2001 on marking and use of certain animal products in relation to Decision 2001/172/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom ⁽¹²⁾, as last amended by Decision 2001/345/EC ⁽¹³⁾.

- (4) The last outbreak of foot-and-mouth disease in Great Britain was recorded on 30 September 2001, more than 3 months ago, and the serological surveillance carried out in order to substantiate the release of disease related restrictions has been completed throughout Great Britain.

- (5) The improved animal health situation now allows to withdraw the majority of restrictions in particular those applicable to dispatch from Great Britain of products of animal origin and most of the live animals of susceptible species.

- (6) However, as a matter of precaution, the situation still requires to maintain strict controls on the dispatch of meat and meat products not eligible for trade which was derived from animals of susceptible species slaughtered between 1 February 2001, the date of possible virus introduction, and 23 April 2001, the date notified in accordance with Article 3 of Decision 2001/304/EC.

- (7) Decision 2001/304/EC should be amended accordingly.

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

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

⁽⁵⁾ OJ L 243, 11.10.1995, p. 7.

⁽⁶⁾ OJ L 26, 31.1.1977, p. 85. Directive updated by Directive 92/5/EEC (OJ L 57, 2.3.1992, p. 1).

⁽⁷⁾ OJ L 10, 16.1.1998, p. 25.

⁽⁸⁾ OJ L 277, 20.10.2001, p. 30.

⁽⁹⁾ OJ L 15, 17.1.2002, p. 34.

⁽¹⁰⁾ OJ L 62, 2.3.2001, p. 22.

⁽¹¹⁾ OJ L 125, 5.5.2001, p. 46.

⁽¹²⁾ OJ L 104, 13.4.2001, p. 6.

⁽¹³⁾ OJ L 122, 3.5.2001, p. 31.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2001/304/EC is amended as follows:

1. In Article 1, point 1 is replaced by the following:

'1. In accordance with Article 5(1) of Directive 72/461/EEC, fresh meat meeting the requirements of Article 3 of Council Directive 64/433/EEC and obtained from animals of the bovine, ovine, caprine and porcine species, fresh meat meeting the requirements of Article 6 of Directive 91/495/EEC and obtained from other biungulates originating in Great Britain, and meat processed in Great Britain during the period running from 1 February 2001 to the date of coming into force of the present Decision shall not be marked with the health mark provided for in Chapter XI of Annex I to Directive 64/433/EEC or in Chapter III of Annex I to Directive 91/495/EEC.'

2. In Article 1, point 5 is replaced by the following:

'5. By derogation from point 1, meat eligible for dispatch from Great Britain in accordance with Commission Decisions 2001/172/EC, 2001/356/EC or 2001/740/EC

may be marked with the health mark provided for in Chapter XI of Annex I to Directive 64/433/EEC or in Chapter III of Annex I to Directive 91/495/EEC.'

3. In Article 2 point 1, the second subparagraph is replaced by the following:

'By derogation from the first subparagraph, meat products which have undergone one of the treatments laid down in Article 4(1) of Council Directive 80/215/EEC, or which have been subjected during preparation uniformly throughout the substance to a pH value of less than 6, may be marked with the health mark provided for in Chapter VI of Annex B to Directive 77/99/EEC.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 January 2002.

For the Commission

David BYRNE

Member of the Commission

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 152/01/COL

of 23 May 2001

revising the guidelines on the application of the EEA State aid provisions to aid for environmental protection and amending for the twenty-eighth time the Procedural and Substantive Rules in the Field of State Aid

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24 and Article 1 of Protocol 3 thereof,

Whereas under Article 24 of the Surveillance and Court Agreement the EFTA Surveillance Authority shall give effect to the provisions concerning State aid;

Whereas under Article 5(2)(b) of the Surveillance and Court Agreement the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary;

Recalling the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾, in particular the provisions contained in Chapter 15 thereof (aid for environmental protection);

Whereas the European Commission adopted on 21 December 2000 Community guidelines on State aid for environmental protection ⁽⁴⁾;

Whereas a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area;

Whereas according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the EC Commission, in order to maintain equal conditions of competition;

Having consulted the European Commission;

Recalling that the EFTA Surveillance Authority has consulted the EFTA States in multilateral meetings of 31 March 2000 and 16 October 2000 and its letter of 11 April 2001 to the EFTA States on the subject,

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

⁽²⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽³⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ L 231 of 3.9.1994, EEA Supplements 3.9.94 No 32, last amended by the Authority's Decision No 78/2000/COL of 12 April 2000, published in OJ L 274 of 26.10.2000, hereinafter referred to as the 'Authority's State Aid Guidelines'.

⁽⁴⁾ OJ C 37, 3.2.2001.

HAS ADOPTED THIS DECISION:

1. The State Aid Guidelines shall be amended by replacing the present Chapter 15 with a new Chapter 15 on aid for environmental protection, as contained in Annex I to this Decision.
2. The Decision, including Annex I, shall be published in the EEA Section of, and the EEA Supplement to the *Official Journal of the European Communities*.
3. The EFTA States shall be informed of this Decision by means of a letter, together with a copy of the Decision, including Annex I. The EFTA States shall be requested to signify their agreement within one month to the proposed appropriate measures as set out in the letter (see points 67 to 69 of the Guidelines).
4. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including Annex I.
5. The Decision shall be authentic in the English language.

Done at Brussels, 23 May 2001.

For the EFTA Surveillance Authority

The President

Knut ALMESTAD

ANNEX I

15. AID FOR ENVIRONMENTAL PROTECTION ⁽¹⁾A. **Introduction**

1. In 1994 the EFTA Surveillance Authority (the Authority) adopted guidelines on State aid for environmental protection, which expired on 31 December 1999. On 16 February 2000 the Authority decided to extend the application of the guidelines until 31 December 2000.
2. Since the guidelines were adopted in 1994, action in the field of the environment has evolved at an international level, in particular following the adoption of the Kyoto Protocol. Environmental taxes, for example, have gathered more importance in recent years. Aid measures in the form of tax reductions and exemptions have, as a result of this development, come more to the forefront. The Authority ought, therefore, to adopt new guidelines, which will be needed in order to familiarise the EFTA States and firms with the criteria that it will apply in deciding whether or not aid measures in the EFTA States are compatible with the EEA Agreement.
3. Environmental policy objectives should be taken into account when assessing the compatibility of State aid in the environmental sector, in particular with a view to promoting sustainable development, see Articles 73 to 75 and the ninth recital of the Preamble to the EEA Agreement. Accordingly, competition policy and environmental policy are not mutually antagonistic, but the requirements of environmental protection need to be integrated into the definition and implementation of competition policy, in particular so as to promote sustainable development.
4. However, taking long-term environmental requirements into account does not mean that all aid must be authorised. Consideration has to be given to the effects the aid may have in terms of sustainable development and full application of the "polluter pays" principle. Some forms of aid certainly do satisfy these tests, particularly where they make it possible to achieve a high level of environmental protection while avoiding any conflict with the principle of the internalisation of costs. But other forms of aid, as well as having adverse effects on trade between the EEA States and on competition, may run counter to the "polluter pays" principle and may hinder the establishment of a process of sustainable development. This may be the case, for example, where aid is designed merely to facilitate compliance with new standards ⁽²⁾.
5. These guidelines establish principles for assessing whether State aid measures will qualify for exemptions from the general State aid prohibition as laid down in Article 61(1) of the EEA Agreement. Such measures may, *inter alia*, be granted in the form of:
 - aid for achieving environmental protection in relation to various standards,
 - aid as an exemption from environmental taxes.

In the corresponding guidelines issued by the European Commission, aid to assist companies in adapting to mandatory Community standards or tax exemptions leading to lower tax rates than binding minimum rates applicable within the Community, are generally viewed as incompatible with the State aid rules. Aid aimed at achieving higher levels of environmental protection than those required by given standards may, however, on certain conditions be considered compatible. The same applies for tax exemptions that do not conflict with obligatory Community minimum rates and which are temporary in nature.

With a view to ensuring equal conditions of competition throughout the EEA, the Authority will, therefore, use the same points of reference when assessing environmental aid measures in the EFTA States for compatibility with the functioning of the EEA Agreement. This implies that the present guidelines refer to Community standards and Community tax harmonisation measures where such are established.

The Authority emphasises that such references to Community legislation do not imply that the EFTA States are obliged to comply with Community legislation when such legislation has not been implemented in the EEA Agreement. They serve only as a basis for assessing the compatibility of aid measures with the functioning of the EEA Agreement in terms of Article 61(3) of the Agreement ⁽³⁾.

6. The Authority's approach in these guidelines consists in determining whether, and under what conditions, State aid may be regarded as necessary to ensure environmental protection and sustainable development without having disproportionate effects on competition and economic growth. This analysis must be carried out in the light of the lessons that can be drawn from the functioning of the 1994 Guidelines and in the light of the changes in environmental policy that have occurred since then.

⁽¹⁾ This chapter corresponds to the European Community guidelines on State aid for environmental protection (OJ C 37, 3.2.2001, p. 3).

⁽²⁾ See point 5.

⁽³⁾ The Authority recalls the EFTA Court findings in the case between Norway and the Authority on the Norwegian differentiated social security contributions where the Court noted that, as a general rule, a tax system of an EEA/EFTA State is not covered by the EEA Agreement. In certain cases, however, such a system may have consequences that would bring it within the scope of application of Article 61(1) of the EEA Agreement. (EFTA Court, Case E-6/98, *Government of Norway v EFTA Surveillance Authority*, 1999 Report of the EFTA Court, p. 74, point 34.)

B. **Definitions and scope**

7. *The concept of environmental protection:* for the purposes of these guidelines, the Authority takes "environmental protection" to mean any action designed to remedy or prevent damage to our physical surroundings or natural resources, or to encourage the efficient use of these resources.

The Authority regards energy-saving measures and the use of renewable sources of energy as action to protect the environment. Energy-saving measures should be understood as meaning, among other things, action which enables companies to reduce the amount of energy used in their production cycle. The design and manufacture of machines or means of transport which can be operated with fewer natural resources are not covered by these guidelines. Action taken within plants or other production units with a view to improving safety or hygiene is important and may be eligible for certain types of aid, but it is not covered by these guidelines.

The concept of the internalisation of costs: in these guidelines the "internalisation of costs" means the principle that all costs associated with the protection of the environment should be included in firms' production costs.

The polluter pays principle: this is the principle that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution.

Polluter: a polluter is someone who directly or indirectly damages the environment or who creates conditions leading to such damage ⁽⁴⁾.

Prices to reflect costs: this principle states that the prices of goods or services should incorporate the external costs associated with the negative impact on the environment of their production and marketing.

Community standard ⁽⁵⁾: standard mandatory within the European Community setting the levels to be attained in environmental terms and the obligation to use the best available techniques (BAT) ⁽⁶⁾ which do not entail excessive costs.

Renewable energy sources: renewable non-fossil energy sources, namely wind energy, solar energy, geothermal energy, wave energy, tidal energy, hydroelectric installations with a capacity below 10 MW and biomass, where biomass is defined as products from agriculture and forestry, vegetable waste from agriculture, forestry and the food production industry, and untreated wood waste and cork waste ⁽⁷⁾.

Electric power generated from renewable energy sources: electric power generated by plant using only renewable energy sources, and that share electric power generated from renewable energy sources in hybrid plant using traditional energy sources, in particular for contingency purposes ⁽⁸⁾.

Environmental tax: one likely feature for a levy to be considered as environmental would be that the taxable base of the levy has a clear negative effect on the environment. However, a levy could also be regarded as environmental if it has a less clear, but nevertheless discernable, positive environmental effect. In general, it is up to the EFTA State to show the estimated environmental effect of the levy ⁽⁹⁾.

⁽⁴⁾ Council recommendation of 3 March 1975 regarding cost allocation and action by public authorities on environmental matters (OJ L 194, 25.7.1975, p. 1), implemented in the EEA Agreement through Annex XX, point 33 of the final acts of which the Contracting Parties shall take note.

⁽⁵⁾ See point 5 (when such standards are incorporated into the EEA Agreement they become in fact EEA standards).

⁽⁶⁾ The concept of best available techniques was introduced into Community legislation by Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (OJ L 129, 18.5.1976, p. 23) and appeared again, in slightly amended form, in Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants (OJ L 188, 16.7.1984, p. 20). Both these Directives have been implemented in the EEA Agreement through Annex XX. Council Directive 96/61/EEC of 24 September 1996 concerning integrated pollution prevention and control (OJ L 257, 10.10.1996 p. 26: "the IPPC Directive") developed and confirmed this concept. This Directive is also implemented in the EEA Agreement through Annex XX. The scope of the IPPC Directive covers industrial installations with a high pollution potential. The Directive has applied since November 1999 to new installations or existing installations which have undergone substantial changes. Existing installations must comply with the rules of the IPPC Directive by October 2007. Until that date the provisions of the two abovementioned Directives relating to the concept of BAT continue to apply. As a rule, the concrete standards, i.e. the emission or consumption limit values based on the use of the best available techniques, are not set at EEA level, but by the national authorities.

⁽⁷⁾ This definition is contained in the European Commission proposal for a directive of the European Parliament and of the Council on the promotion of electricity from renewable sources in the internal electricity market (OJ C 311 E, 31.10.2000, p. 320). Once the Directive has been adopted, the definition given in the final text will be applied. In this relation: see point 5 of these guidelines.

⁽⁸⁾ Same observation as for footnote 7.

⁽⁹⁾ Commission Communication — Environmental taxes and charges in the single market (OJ C 224, 23.7.1997, p. 6).

8. *Scope*: these guidelines apply to aid ⁽¹⁰⁾ to protect the environment in all sectors governed by the EEA Agreement, including those subject to specific EEA rules on State aid (steel processing ⁽¹¹⁾, shipbuilding, motor vehicles, synthetic fibres and transport) ⁽¹²⁾. State aid for R&D in the environmental field is subject to the rules set out in the guidelines on aid for research and development ⁽¹³⁾. Similarly, the Authority considers that the characteristics of aid for environmental training activities do not justify such aid being treated separately, and such aid will therefore be examined in accordance with the applicable rules on training aid ⁽¹⁴⁾.

By virtue of Article 3 of Commission Decision No 2496/96/ECSC of 18 December 1996 ⁽¹⁵⁾ establishing rules for State aid to the steel industry, implemented in the EEA Agreement through Annex XV, aid for environmental protection in the steel industry will continue to be analysed in accordance with Chapter 15 of the Authority's guidelines of 19 January 1994 on aid for environmental protection, until 22 July 2002.

These guidelines do not apply to stranded costs, which will be dealt with separately ⁽¹⁶⁾. The Authority would point out that *de minimis* aid, that is aid of not more than EUR 100 000 granted to a firm for a period of three years, is not caught by Article 61(1) of the EEA Agreement. Such an aid will be examined in accordance with the applicable rules on *de minimis* aid ⁽¹⁷⁾. The rules on *de minimis* aid do not, however, apply to transport, nor to the sectors covered by Article 27 and Protocols 14 and 25 of the EEA Agreement.

C. *State aid and environmental policy*

9. Articles 73 to 75 of the EEA Agreement (see the ninth recital of the Preamble) give the Contracting Parties express powers in the field of environment. These provisions confirm the "polluter pays" principle, which implies that costs associated with protecting the environment should be internalised by firms just like other production costs. However, the provisions go further calling for the requirements of environmental protection to be included in implementation of other policies of the Contracting Parties and stressing the need for prevention. The theme of integrating the environment into other policies is taken up, along with the concept of "sustainable development" in the EC's fifth action programme on the environment, entitled "Towards sustainability" and adopted in 1993 ⁽¹⁸⁾. This acknowledges that the integration of environmental policy with other policies has not been wholly satisfactory when the traditional approach is relied on, based almost exclusively on regulation and particularly standards. This programme therefore argues for a broadening of the range of policy instruments. Different instruments (regulation, voluntary action and economic measures) or various combinations of these may be the best way of achieving desired environmental objectives in a given situation, depending on the legal, technical, economic and social context. Both positive financial incentives, i.e. subsidies, and disincentives, namely taxes and levies, have their place.
10. In 1996 the European Commission drew up a progress report on the fifth action programme on the environment. The report states that the programme's overall strategy and objectives are still valid. There can be no doubt that progress has been made in integrating environmental and sustainability aspects into other policies. However, what has still not occurred is a genuine change in attitude on the part of all the interested parties: policymakers, firms and the general public. It is important to develop the concept of shared responsibility for the environment and to make the general public aware of the issues at stake.
11. In 1999 the European Commission adopted a global assessment of the fifth action programme. The assessment noted that, although the programme raised awareness of the need for stakeholders, citizens and decision-makers in other sectors to pursue environmental objectives actively, less progress had been made overall in changing economic trends and modes of conduct which were harmful to the environment.

⁽¹⁰⁾ The purpose of these guidelines is not to discuss the concept of State aid, which derives from Article 61(1) of the EEA Agreement and from the case law of the EFTA Court, the Court of Justice of the European Communities and the Court of First Instance of the European Communities.

⁽¹¹⁾ Within the limits laid down in the second paragraph of point 8.

⁽¹²⁾ The Authority points out that the present guidelines concern only environmental aid, without prejudice to the applicability of other provisions governing State aid and subject to the limitations of the rules on combinations of aid in point 66.

⁽¹³⁾ Chapter 14 of the Authority's guidelines.

⁽¹⁴⁾ Chapter 18A of the Authority's guidelines until the Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid, OJ L 10, 13.1.2001, p. 20, is incorporated into the EEA Agreement.

⁽¹⁵⁾ OJ L 338, 28.12.1996, p. 42.

⁽¹⁶⁾ Stranded costs are costs which firms must bear because of commitments they made and are no longer able to honour as a result of the liberalisation of the sector in question.

⁽¹⁷⁾ Chapter 12 of the Authority's guidelines until the Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to the *de minimis* rule, OJ L 10, 13.1.2001, p. 30, is incorporated into the EEA Agreement.

⁽¹⁸⁾ OJ C 138, 17.5.1993, p. 1, implemented in the EEA Agreement through Article 3 of Protocol 31 to the Agreement.

12. The assessment also noted that "it is increasingly clear that damages to the environment have costs to society as a whole and, conversely, that environmental action can generate benefits in the form of economic growth, employment and competitiveness" and that the effective application of the "polluter pays" principle and the full internalisation of environmental costs onto polluters remains a critical process ⁽¹⁹⁾.
13. Against this background and with a view to ensuring a uniform surveillance in the field of State aid throughout the EEA Area, the Authority's approach on the control of State aid for environmental purposes needs to satisfy a double imperative:
 - (a) to ensure the competitive functioning of markets, while promoting the completion of the single market and increased competitiveness in firms;
 - (b) to ensure that the requirements of environmental protection are integrated into the definition and implementation of competition policy, in particular in order to promote sustainable development. The Authority here believes that internalisation of costs is a priority objective that can be achieved in various ways, including by way of instruments based on market laws or those based on a regulatory approach, these being the most effective tools for achieving the objectives described above.
14. Cost internalisation helps to ensure that prices accurately reflect costs in so far as economic operators allocate their financial resources on the basis of the prices of the goods and services they wish to buy. The progress report on the fifth programme emphasises that this aim has not been realised because prices do not reflect ecological costs. This in turn makes it more difficult to raise public awareness and promotes over-exploitation of natural resources.
15. Ensuring that prices reflect costs at all stages of the economic process is the best way of making all parties aware of the cost of protecting the environment. Apart from its potentially adverse effects on trade and competition, State aid generally undermines that aim because it enables certain firms to reduce costs artificially and not to reveal the costs of environmental protection to consumers. In the long term, therefore, some forms of State aid run counter to the objectives of sustainable development.
16. The Authority's guidelines on aid for environmental protection adopted in 1994 form an integral part of this policy. In general, the "polluter pays" principle and the need for firms to internalise the costs associated with protecting the environment would appear to militate against the granting of State aid.
17. Nevertheless, the guidelines state that aid can be justified in two instances:
 - (a) in certain specific circumstances in which it is not yet possible for all costs to be internalised by firms and the aid can therefore represent a temporary second-best solution by encouraging firms to adapt to standards;
 - (b) the aid may also act as an incentive to firms to improve on standards or to undertake further investment designed to reduce pollution from their plants.
18. In the guidelines adopted in 1994, the Authority took the view that, in certain cases, total cost internalisation was not yet possible and that aid might be necessary on a temporary basis. The following changes have nevertheless taken place since 1994:
 - (a) firms have had seven years in which to adapt to the gradual application of the "polluter pays" principle and cost internalisation;
 - (b) the European Commission's 1996 progress report on the fifth action programme and the 1999 evaluation report restate the need to provide for cost internalisation and to use market instruments in order to make significant progress in improving the environment;
 - (c) the use of market instruments and proper pricing is also advocated by the Kyoto Protocol on climate change.
19. The Authority's position is therefore that aid should no longer be used to make up for the absence of cost internalisation. If environmental requirements are to be taken into account in the long term, prices must accurately reflect costs and environmental protection costs must be fully internalised. Consequently, the Authority takes the view that aid is not justified in the case of investments which merely bring companies into line with new or existing Community technical standards ⁽²⁰⁾. In its view, however, in order to address the special

⁽¹⁹⁾ Communication from the Commission — Europe's environment: What directions for the future? The global assessment of the European Community programme of policy and action in relation to the environment and sustainable development, "Towards Sustainability" (COM(1999) 543 final, 24.11.1999).

⁽²⁰⁾ For the definition of "Community standard" see point 7. See also point 5.

difficulties encountered by SMEs, it should be possible to grant them aid for adapting to new Community standards for a period of three years from the adoption of such standards ⁽²¹⁾. Aid may though be useful where it serves as an incentive to achieve levels of protection which are higher than those set by Community standards. This is the case when an EFTA State decides to adopt standards which are more stringent than the Community standards so as to achieve a higher level of environmental protection. It will also apply when a firm invests in environmental protection over and above the strictest existing Community standards or where no Community standards exist.

Specific case of the energy sector and tax reductions

20. Since the guidelines were adopted in 1994 the energy sector has undergone major changes which need to be taken into consideration.
21. Certain EFTA States have adopted, are in the process of adopting or might consider adopting taxes the effects of which are conducive to environmental protection. In some cases, exemptions from or reductions in taxes are granted to firms in particular categories in order to avoid placing them in a difficult competitive situation. The Authority takes the view that such measures may constitute State aid within the meaning of Article 61(1) of the EEA Agreement. However, the adverse effects of such aid can be offset by the positive effect of adopting taxes. Accordingly, if such exemptions are necessary to ensure the adoption or continued application of taxes applicable to all products, the Authority takes the view that they are acceptable, subject to certain conditions and for a limited period of time. This period may last for 10 years if the conditions are met. Thereafter, the EFTA States will remain free to re-notify the measures in question to the Authority, which could adopt the same approach in its analysis while taking into consideration the positive results obtained in environmental terms.
22. Measures may be taken to promote the use of renewable sources of energy and combined heat and energy production. The Authority takes the view that, where measures to promote renewable sources of energy and the combined production of electric power and heat constitute State aid, they are acceptable subject to certain conditions. It must be certain, however, that such aid is not in breach of other provisions of the EEA Agreement.

D. General conditions for authorising environmental aid

D.1. Investment aid

D.1.1. Transitional investment aid to help SMEs adapt to new Community standards ⁽²²⁾

23. For a period of three years from the adoption ⁽²³⁾ of new Community standards, investment aid to help SMEs meet new standards may be authorised up to a maximum of 15 % gross of eligible costs.

D.1.2. General conditions for authorising investment aid to firms improving on Community standards ⁽²⁴⁾

24. Investment aid enabling firms to improve on the Community standards applicable may be authorised up to not more than 30 % gross of the eligible investment costs as defined in point 32. These conditions also apply to aid where firms undertake investment in the absence of Community standards or where they have to undertake investment in order to comply with national standards that are more stringent than the applicable Community standards.

D.1.3. Investment in energy

25. Investments in energy saving as defined in point 7 are deemed equivalent to investments to promote environmental protection. Such investments play a major role in achieving economically environmental objectives ⁽²⁵⁾. They are, therefore, eligible for investment aid at the basic rate of 40 % of eligible costs.

⁽²¹⁾ It is the date of the adoption within the Community that is the relevant point of departure for the calculation of the period allowed, see points 5 and 7.

⁽²²⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽²³⁾ Same observation as for footnote 21.

⁽²⁴⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽²⁵⁾ See: Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Action Plan to improve energy efficiency in the European Community (COM(2000) 247 final, 26.4.2000).

26. Investments in the combined production of electric power and heat may also qualify under these guidelines if it can be shown that the measures are beneficial in terms of the protection of the environment because the conversion efficiency ⁽²⁶⁾ is particularly high, because the measures will allow energy consumption to be reduced or because the production process will be less damaging to the environment ⁽²⁷⁾. In this connection, the Authority will take into particular consideration the type of primary energy used in the production process. Such investment may be given aid at the basic rate of 40 % of eligible cost.
27. Investments to promote renewable sources of energy are deemed equivalent to environmental investments undertaken in the absence of Community standards ⁽²⁸⁾. It should also be borne in mind that measures in support of renewable sources of energy are one of the environmental and long-term objectives that should be encouraged most ⁽²⁹⁾. The rate of aid for investment in support of these forms of energy is therefore 40 % of eligible costs.

The Authority takes the view that renewable energy installations serving all the needs of an entire community such as an island or residential area should also benefit. Investments made in this connection may qualify for a bonus of 10 percentage points on top of the basic rate of 40 % of eligible costs.

The Authority considers that, where it can be shown to be necessary, EFTA States will be able to grant investment aid to support renewable energy, up to 100 % of eligible costs. The installations concerned will not be entitled to receive any further support.

D.1.4. *Bonus for firms located in assisted regions*

28. In regions which are eligible for national regional aid, firms may receive aid to promote regional development. To encourage them to invest further in the environment, it should be possible, where appropriate, to provide additional aid towards any environmental investment carried out in accordance with point 24 ⁽³⁰⁾.
29. Consequently, in regions eligible for regional aid, the maximum rate of environmental aid applicable to eligible costs as defined in point 32 is determined as follows.

In assisted regions the maximum rate of aid applicable is the higher of the following two options:

- (a) either the basic rate for environmental investment aid, i.e. 30 % gross (standard system), 40 % gross (investments in energy saving, in renewable sources of energy or to promote the combined production of electric power and heat) or 50 % gross (investments in renewable sources of energy that supply an entire community), plus five percentage points gross in the regions covered by Article 61(3)(c) and 10 percentage points in the regions covered by Article 61(3)(a) of the EEA Agreement ⁽³¹⁾;
- (b) or the regional aid rate plus 10 percentage points gross.

D.1.5. *Bonus for SMEs*

30. Where investments of the kind referred to in points 24 to 27 are carried out by small or medium-sized enterprises, an increase of 10 percentage points gross may be authorised ⁽³²⁾. For the purposes of these guidelines, the definition of SMEs is that given by the applicable EEA rule ⁽³³⁾.

The above bonuses for assisted regions and SMEs may be combined, but the maximum rate of environmental aid may never exceed 100 % gross of the eligible costs. SMEs do not qualify for a double bonus either under the provisions applicable to regional aid or under those applicable in the environmental field ⁽³⁴⁾.

⁽²⁶⁾ By "conversion efficiency" is meant the ratio between the quantity of primary energy used to produce a secondary form of energy and the quantity of secondary energy actually produced. It is calculated as follows: electric energy produced + thermal energy produced/energy used.

⁽²⁷⁾ See: Council Resolution of 18 December 1997 on a Community strategy to promote combined heat and power (OJ C 4, 8.1.1998, p. 1).

⁽²⁸⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽²⁹⁾ See: Council Regulation of 8 June 1998 on renewable sources of energy (OJ C 198, 24.6.1998, p. 1).

⁽³⁰⁾ These bonuses are not available where the EFTA State grants investment aid in accordance with the third paragraph of point 27 (aid of up to 100 % of eligible costs).

⁽³¹⁾ Investments in assisted regions are eligible for investment aid if the conditions of Chapter 25 of the Authority's guidelines on regional State aid are met.

⁽³²⁾ This bonus is not available where the EFTA State grants investment aid in accordance with the third paragraph of point 27 (aid of up to 100 % of eligible costs).

⁽³³⁾ For the time being that given in Chapter 10.2 of the Authority's guidelines on aid to small and medium-sized enterprises, which corresponds to Commission Recommendation 96/280/EC of 3 April 1996 giving the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4).

⁽³⁴⁾ Investments by SMEs are eligible for investment aid under the provisions of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid for small and medium-sized enterprises (OJ L 10, 13.1.2001, p. 33), which is to be implemented in the EEA Agreement through Annex XV thereto.

D.1.6. *The investments concerned*

31. The investments concerned are investments in land which are strictly necessary in order to meet environmental objectives, investments in buildings, plant and equipment intended to reduce or eliminate pollution and nuisances, and investments to adapt production methods with a view to protecting the environment.

Spending on technology transfer through the acquisition of operating licences or of patented and non-patented know-how may also qualify. But any such intangible asset must satisfy the following tests:

- (a) it must be regarded as a depreciable asset;
- (b) it must be purchased on market terms, from an entity in which the acquirer has no power of direct or indirect control;
- (c) it must be included in the assets of the firm, and remain in the establishment of the recipient of the aid and be used there for at least five years. This conditions does not apply if these intangible assets are technically out of date. If it is sold during those five years, the yield from the sale must be deducted from the eligible costs and all or part of the amount of aid must, where appropriate, be reimbursed.

D.1.7. *Eligible costs*

32. Eligible costs must be confined strictly to the extra investment costs necessary to meet the environmental objectives.

This has the following consequences: where the cost of investment in environmental protection cannot be easily identified in the total cost, the Authority will take account of objective and transparent methods of calculating, e.g. the cost of a technically comparable investment that does not though provide the same degree of environmental protection.

In all cases, eligible costs must be calculated net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period ⁽³⁵⁾.

For renewable energy, eligible investment costs are normally the extra costs borne by the firm compared with a conventional power plant with the same capacity in terms of the effective production of energy.

Where SMEs adapt to new Community standards ⁽³⁶⁾, eligible costs include additional investments needed to attain the level of environmental protection required by those standards.

Where the firm is adapting to national standards adopted in the absence of Community standards, the eligible costs consist of the additional investment costs necessary to achieve the level of environmental protection required by the national standards.

Where the firm is adapting to national standards which are more stringent than the Community standards or undertakes a voluntary improvement on Community standards, the eligible costs consist of the additional investment costs necessary to achieve a level of environmental protection higher than the level required by the Community standards. The cost of investments needed to reach the level of protection required by the Community standards is not eligible.

Where no standards exist, eligible costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the firm or firms in question would achieve in the absence of any environmental aid.

D.1.8. *Rehabilitation of polluted industrial sites*

33. Interventions made by firms repairing environmental damage by rehabilitating polluted industrial sites may come within the scope of these guidelines ⁽³⁷⁾. The environmental damage concerned may be damage to the quality of the soil or of surface or underground water ⁽³⁸⁾.

Where the person responsible for the pollution is clearly identified, that person must finance the rehabilitation in accordance with the "polluter pays" principle, and no State aid may be given. By "person responsible for the pollution" is meant the person liable under the law applicable in each EFTA State, without prejudice to the adoption of EEA rules in the matter.

⁽³⁵⁾ If the investments are concerned solely with environmental protection without any other economic benefits, no additional reduction will be applied in determining the eligible costs.

⁽³⁶⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽³⁷⁾ The Authority would point out that rehabilitation work carried out by public authorities is not, as such, caught by Article 61 of the EEA Agreement. Problems of State aid may, however, arise if the land is sold after rehabilitation at a price below its market value.

⁽³⁸⁾ All expenditure incurred by a firm in rehabilitating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, ranks as eligible investment in the case of the rehabilitation of polluted sites.

Where the person responsible for the pollution is not identified or cannot be made to bear the cost, the person responsible for the work may receive aid ⁽³⁹⁾.

Aid for the rehabilitation of polluted industrial sites may amount to up to 100 % of the eligible costs, plus 15 % of the cost of the work. The eligible costs are equal to the cost of the work less the increase in the value of the land.

The total amount of aid may under no circumstances exceed the actual expenditure incurred by the firm.

D.1.9. *Relocation of firms*

34. The Authority takes the view that as a rule the relocation of firms to new sites does not constitute environmental protection and does not therefore give entitlement to aid under these guidelines.

The granting of aid may, however, be justified when a firm established in an urban area or in an area comparable to a Natura 2000 designated area ⁽⁴⁰⁾ lawfully carries on an activity that creates major pollution and must, on account of this location, move from its place of establishment to a more suitable area.

All the following criteria must be satisfied at the same time:

- (a) the change of location must be dictated on environmental protection grounds and must have been ordered by administrative or judicial decision;
- (b) the firm must comply with the strictest environmental standards applicable in the new region where it is located.

A firm satisfying the above conditions may receive investment aid in accordance with point 24. The provisions of point 30 concerning the granting of a bonus for SMEs will apply.

In order to determine the amount of eligible costs in the case of relocation aid, the Authority will take into account the yield from the sale or renting of the plant or land abandoned, the compensation paid in the event of expropriation and the costs connected with the purchase of land or the construction or purchase of new plant of the same capacity as the plant abandoned. Account may also be taken of any other gains connected with the transfer of the plant, notably gains resulting from an improvement, on the occasion of the transfer, in the technology used and accounting gains associated with better use of the plant. Investments relating to any capacity increase may not be taken into consideration in calculating the eligible costs conferring entitlement to the granting of environmental aid.

If the administrative or judicial decision ordering the change of location results in the early termination of a contract for the renting of land or buildings, any penalties imposed on the firm for having terminated the contract may be taken into consideration in calculating the eligible costs.

D.1.10. *Common rules*

35. Aid for investment to improve on Community standards or undertaken where no Community standards exist may not be granted where such improvements merely bring companies into line with Community standards already adopted but not yet in force ⁽⁴¹⁾. A firm may be given aid to enable it to comply with national standards which are more stringent than Community standards or where no Community standards exist only if it complies with the national standards by the final date laid down in the relevant national measures. Investments carried out after that date do not qualify ⁽⁴²⁾.

D.2. **Aid to SMEs for advisory/consultancy services in the environmental field**

36. Advisory/consultancy services play an important part in helping SMEs to make progress in environmental protection. The Authority therefore takes the view that aid may be granted in line with the provisions of Regulation (EC) No 70/2001 ⁽⁴³⁾, which is to be implemented in the EEA Agreement through Annex XV.

⁽³⁹⁾ The person responsible for performing the work need not necessarily be the person responsible for the pollution within the meaning in which that expression is used here.

⁽⁴⁰⁾ See: Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7), which forms part of the European Ecological Network known as Natura 2000. (The EFTA States do not participate in this programme, but there are areas within the EFTA States that would qualify as Natura 2000 areas, and in such cases the Authority's view is that EFTA States should have the opportunity to grant aid in accordance with point 34).

⁽⁴¹⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽⁴²⁾ The rules set out in this point are without prejudice to point 23 concerning aid for SMEs.

⁽⁴³⁾ See footnote 34.

D.3. Operating aid

D.3.1. Rules applicable to all operating aid to promote waste management and energy saving

37. The following rules apply to two types of operating aid, namely:
- (a) aid for the management of waste where such management is in line with the hierarchical classification of the principles of waste management ⁽⁴⁴⁾;
 - (b) aid in the energy-saving field.
38. Where such aid is shown to be absolutely necessary, it should be strictly limited to compensating for extra production costs by comparison with the market prices of the relevant products or services ⁽⁴⁵⁾. Such aid must also be temporary and, as a general rule, must be wound down over time, so as to provide an incentive for prices to reflect costs reasonably rapidly.
39. The Authority takes the view that firms should normally bear the costs of treating industrial waste in accordance with the "polluter pays" principle. However, operating aid may be necessary where national standards are introduced which are more stringent than the applicable Community standards, or where national standards are introduced in the absence of Community standards, so that firms temporarily lose competitiveness at international level ⁽⁴⁶⁾.
- Firms receiving operating aid towards the treatment of industrial or non-industrial waste must finance the service provided in proportion to the amount of waste they produce and/or the cost of treatment.
40. All such operating aid is subject to a limit duration of five years where the aid is "degressive". Its intensity may amount to 100 % of the extra costs in the first year but must have fallen in a linear fashion to zero by the end of the fifth year.
41. In the case of "non-degressive" aid, its duration is limited to five years and its intensity must not exceed 50 % of the extra costs.

D.3.2. Rules applicable to all operating aid in the form of tax reductions or exemptions

42. When adopting taxes that are to be levied on certain activities for reasons of environmental protection, EFTA States may deem it necessary to make provision for temporary exemptions for certain firms notably because of the absence of harmonisation at European level or because of the temporary risks of a loss of international competitiveness. In general, such exemptions constitute operating aid caught by Article 61(1) of the EEA Agreement. When assessing whether such measures qualify for exemptions from the general State aid prohibition as laid down in Article 61(1), it has to be ascertained among other things whether the tax in question corresponds to a tax which is to be levied within the European Community as the result of a Community decision ⁽⁴⁷⁾. This aspect will be essential with regard to whether or not there could be a loss of international competitiveness for the taxpayer.
43. If the tax does not correspond to a tax which is to be levied within the European Community as the result of a Community decision, the firms affected may have some difficulty in adapting rapidly to the new tax burden. In such circumstances there may be justification for a temporary exemption enabling certain firms to adapt to the new situation.
44. If the tax does not correspond to a tax which is to be levied within the European Community as the result of a Community directive, there are two possible scenarios:
- (a) an EFTA State applies tax to certain products at a rate higher than the minimum rate laid down in the Community directive and grants an exemption to certain firms, which, as a result, pay tax at a rate which is lower but nevertheless at least equal to the minimum rate set by the directive. The Authority takes the view that, in those circumstances, a temporary exemption may be justified to enable firms to adapt to higher taxation and to provide them with an incentive to act in a more environmentally friendly manner;

⁽⁴⁴⁾ See classification given in the Communication from the Commission on the review of the Community strategy for waste management (COM(96) 399 final of 30.7.1996). In this communication, the Commission recalls that waste management is a priority objective for the Community in order to reduce the risks to the environment. The concept of waste treatment must be looked at from three angles: re-utilisation, recycling and recovery. Waste, whose production is unavoidable, must be treated and eliminated without danger. The said communication is, by reason of its legal character, not implemented in the EEA Agreement. Similar classifications of waste are, however, given in several binding Council Decisions which are implemented in the EEA Agreement through Annex XX, for instance Council Decisions 94/3, 94/904 and 2000/532. For the purpose of assessing whether a measure taken by an EFTA State contains an element of State aid, the Authority will base its decisions on the classification given in the Commission communication in order to find the accurate point of reference. Otherwise, measures taken by an EFTA State would not be judged under the same conditions as measures taken by an EC Member State.

⁽⁴⁵⁾ The concept of production costs must be understood as being net of any aid but inclusive of a normal level of profit.

⁽⁴⁶⁾ For the definition of "Community standard" see point 7. See also point 5.

⁽⁴⁷⁾ See point 5.

- (b) an EFTA State applies tax to certain products at a rate corresponding to the minimum rate laid down in the Community directive and grants an exemption to certain firms, which are thus subject to taxation at a rate below the mentioned minimum rate. If such an exemption would not have been authorised within the European Community by the directive in question, it will constitute aid which is incompatible with Article 61 of the EEA Agreement. If such an exemption would have been authorised within the European Community by the directive, the Authority may take the view that it is compatible with Article 61 in so far as it is necessary and is not disproportionate in the light of the EEA objectives pursued. The Authority will be specially concerned to ensure that any such exemption is strictly limited in time.
45. In general, the tax measures in question should make a significant contribution to protecting the environment. Care should be taken to ensure that the exemptions do not, by their very nature, undermine the general objectives pursued.
46. These exemptions can constitute operating aid which may be authorised on the following conditions:
- 46.1. When, for environmental reasons, an EFTA State introduces a new tax in a sector of activity or on products in respect of which no corresponding European Community tax harmonisation has been carried out or when the tax envisaged by the EFTA State exceeds that provided for in Community legislation, the Authority takes the view that exemption decisions covering a 10-year period with no degressivity may be justified in two cases:
- (a) these exemptions are conditional on the conclusion of agreements between the EFTA State concerned and the recipient firms whereby the firms or associations of firms undertake to achieve environmental protection objectives during the period for which the exemptions apply or when firms conclude voluntary agreements which have the same effect. Such agreements or undertakings may relate, among other things, to a reduction in energy consumption, a reduction in emissions or any other environmental measure. The substance of the agreements must be negotiated by each EFTA State and will be assessed by the Authority when the aid projects are notified to it. EFTA States must ensure strict monitoring of the commitments entered into by the firms or associations of firms. The agreements concluded between an EFTA State and the firms concerned must stipulate the penalty arrangements applicable if the commitments are not met.
- These provisions also apply where an EFTA State makes a tax reduction subject to conditions that have the same effect as the agreements or commitments referred to above;
- (b) these exemptions need not be conditional on the conclusion of agreements between the EFTA State concerned and the recipient firms if the following alternative conditions are satisfied:
- where the reduction concerns a tax corresponding to a harmonised European Community tax, the amount effectively paid by the firms after the reduction must remain higher than the European Community minimum in order to provide the firms with an incentive to improve environmental protection,
 - where the reduction concerns a tax which does not correspond to a tax subject to harmonisation at European Community level, the firms eligible for the reduction must nevertheless pay a significant proportion of the national tax.
- 46.2. The provisions in point 46.1 above may be applied to existing taxes if the following two conditions are satisfied at the same time:
- (a) the tax in question must have an appreciable positive impact in terms of environmental protection;
- (b) the derogations for the firms concerned must have been decided on when the tax was adopted or must have become necessary as a result of a significant change in economic conditions that placed the firms in a particularly difficult competitive situation. In the latter instance, the amount of the reduction may not exceed the increase in costs resulting from the change in economic conditions. Once there is no longer any increase in costs, the reduction must no longer apply.
- 46.3. EFTA States may also encourage the development of processes for producing electric power from conventional energy sources such as gas that have an energy efficiency very much higher than the energy efficiency obtained with conventional production processes. In such cases, given the importance of such techniques for environmental protection and provided that the primary energy used reduces significantly the negative effects in terms of environmental protection, the Authority takes the view that total exemptions from taxes may be justified for a period of five years where aid is non-degressive. Derogations for 10 years may also be granted in accordance with the conditions set out in points 46.1 and 46.2.
47. Where an existing tax is increased significantly and where the EFTA State concerned takes the view that derogations are needed for certain firms, the conditions set out in point 46.1 as regards new taxes are applicable by analogy.

48. When the reductions concern a tax which corresponds to a tax subject to harmonisation at European Community level and when the national tax is lower than or equal to a corresponding harmonised Community minimum, the Authority takes the view that long-term exemptions are not justified.

However, in all cases of reduction of tax, the EFTA State may grant operating aid in accordance with points 40 and 41 if the reduction granted satisfies the conditions laid down in these points. If the tax corresponds to a tax subject to harmonisation at European Community level, an express authorisation to derogate from the Community minimum must then in any event be provided for in the corresponding Community tax harmonisation provision.

D.3.3. *Rules applicable to operating aid for renewable energy sources*

49. As regards the production of renewable energy, operating aid will usually be allowable under these guidelines.
50. The Authority takes the view that such aid qualifies for special treatment because of the difficulties these sources of energy have sometimes encountered in competing effectively with conventional sources. It must also be borne in mind that it is a common objective to encourage the development of these sources of energy, notably on environmental grounds. Aid may be necessary in particular where the technical processes available do not allow energy to be produced at unit costs comparable to those of conventional sources.
51. Operating aid may be justified here in order to cover the difference between the cost of producing energy from renewable energy sources and the market price of that energy. The form of such aid may vary depending on the kind of energy involved and the support mechanism worked out by the EFTA State. Moreover, when studying cases, the Authority will take account of the competitive position of each form of energy involved.
52. EFTA States may grant aid for renewable energy sources as follows:

D.3.3.1. *Option 1*

53. In the renewable energy field, unit investment costs are particularly high and generally account for a significant proportion of firms' costs and do not allow firms to charge competitive prices on the markets where they sell energy.
54. In order to take better account of this market-access barrier for renewable energies, EFTA States may grant aid to compensate for the difference between the production cost of renewable energy and the market price of the form of power concerned. Any operating aid may be granted only for plant depreciation. Any further energy produced by the plant will not qualify for any assistance. However, the aid may also cover a fair return on capital if EFTA States can show that this is indispensable given the poor competitiveness of certain renewable energy sources.

In determining the amount of operating aid, account should also be taken of any investment aid granted to the firm in question in respect of the new plant.

When notifying aid schemes to the Authority, EFTA States must state the precise support mechanisms and in particular the methods of calculating the amount of aid. If the Authority authorises the scheme, the EFTA State must then apply those mechanisms and methods of calculation when it comes to granting aid to firms.

55. Unlike most other renewable sources of energy, biomass requires relatively less investment but brings higher operating costs. The Authority will, therefore, be amenable to operating aid exceeding the amount of investment where EFTA States can show that the aggregate costs by firms after plant depreciation are still higher than the market prices of the energy.

D.3.3.2. *Option 2*

56. EFTA States may grant support for renewable energy sources by using market mechanisms such as green certificates or tenders. These systems allow all renewable energy producers to benefit indirectly from guaranteed demand for their energy, at a price above the market price for conventional power. The price of these green certificates is not fixed in advance but depends on supply and demand.
57. Where they constitute State aid, these systems may be authorised by the Authority if EFTA States can show that support is essential to ensure the viability of the renewable energy sources concerned, does not in the aggregate result in overcompensation for renewable energy and does not dissuade renewable energy producers from becoming more competitive. With a view to verifying that these criteria are met, the Authority intends to authorise these aid systems for a period of 10 years, after which it will have to be assessed whether the support measure needs to be continued.

D.3.3.3. Option 3

58. EFTA States may grant operating aid to new plants producing renewable energy that will be calculated on the basis of the external costs avoided. These are the environmental costs that society would have to bear if the same quantity of energy were produced by a production plant operating with conventional forms of energy. They will be calculated on the basis of the difference between, on the one hand, the external costs produced and not paid by renewable energy producers and, on the other hand, the external costs produced and not paid by non-renewable energy producers. To carry out these calculations, the EFTA State will have to sue a method of calculation that is internationally recognised and has been communicated to the Authority. It will have to provide among other things a reasoned and quantified comparative cost analysis, together with an assessment of competing energy producers' external costs, so as to demonstrate that the aid does genuinely compensate for external costs not covered.

At any event, the amount of the aid thus granted to the renewable-energy producer must not exceed EUR 0,05 per kWh.

Furthermore, the amount of aid granted to producers that exceeds the amount of aid resulting from option 1 must be reinvested by the firms in renewable sources of energy. It will be taken into account by the Authority if this activity also qualifies for State aid.

59. If option 3 is to remain consistent with the general rules on competition, the Authority must be certain that the aid does not give rise to any distortion of competition contrary to the common interest. In other words, it must be certain that the aid will result in an actual overall increase in the use of renewable energy sources at the expense of conventional energy sources, and not in a simple transfer of market shares between renewable energy sources. The following conditions will therefore have to be met:
- aid granted under this option must form part of a scheme which treats firms in the renewable energy sector on an equal footing,
 - the scheme must provide for aid to be granted without discrimination as between firms producing the same renewable energy,
 - the scheme must be re-examined by the Authority every five years.

D.3.3.4. Option 4

60. EFTA States may still grant operating aid in accordance with the general rules governing such aid in points 40 and 41.

D.3.4. *Rules applicable to operating aid for the combined production of electric power and heat*

61. The Authority takes the view that operating aid for the combined production of electric power and heat may be justified provided that the conditions set out in point 26 are met. Such aid may be granted to firms distributing electric power and heat to the public where the costs of producing such electric power or heat exceed its market price. In similar circumstances, operating aid may be granted in accordance with the rules in points 53 to 60. The decision as to whether the aid is essential will take account of the costs and revenue resulting from the production and sale of the electric power or heat.
62. Operating aid may be granted on the same conditions as for the industrial use of the combined production of electric power and heat where it can be shown that the production cost of one unit of energy using that technique exceeds the market price of one unit of conventional energy. The production cost may include the plant's normal return on capital but any gains by the firm in terms of heat production must be deducted from production costs.

E. ***Policies, measures and instruments for reducing greenhouse gases***

63. The Kyoto Protocol ⁽⁴⁸⁾ calls for a limitation or reduction in greenhouse gas emissions during the period 2008 to 2012. The Authority takes the view that some of the means adopted to comply with the objectives of the Protocol could constitute State aid but it is still too early to lay down the conditions for authorising any such aid.

F. ***Basis of exemption for all projects examined by the Authority***

64. Subject to the limits and conditions set out in these guidelines, environmental aid will be authorised by the Authority pursuant to Article 61(3)(c) of the EEA Agreement for aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

⁽⁴⁸⁾ Norway and Liechtenstein have signed, but still not ratified, the Kyoto Protocol. Iceland has not signed the Protocol. However, all three countries have signed and ratified the climate convention, which constitutes the framework for the Protocol.

65. Aid to promote the execution of important projects of common European interest, which are an environmental priority and will often have beneficial effects beyond the frontiers of the EFTA State(s) concerned, can be authorised under the exemption provided for in Article 61(3)(b) of the EEA Agreement. However, the aid must be necessary for the project to proceed, and the project must be specific, well defined and qualitatively important and must make an exemplary and clearly identifiable contribution to the common European interest. When this exemption is applied, the Authority may authorise aid at higher rates than the limits laid down for aid authorised pursuant to Article 61(3)(c).

G. ***Overlapping of aid from different sources***

66. The aid ceilings stipulated in these guidelines are applicable irrespective of whether the aid in question is financed wholly or in part from state resources or from resources accruing from EEA cooperation. Aid authorised under these guidelines may not be combined with other forms of European Community financing obtained through the participation of EFTA States in Community programmes, if such overlapping produces an aid intensity higher than that laid down in these guidelines.

In the case of aid serving different purposes and involving the same eligible costs, the most favourable aid ceiling will apply.

H. ***“Appropriate measures” within the meaning of Article 1(1) of Protocol 3 to Surveillance and Court Agreement***

67. For the purpose of these guidelines and acting under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, the Authority will propose the following appropriate measures to the EFTA States in respect of their existing systems of aid.
68. In order to enable it to assess any substantial amounts of aid granted under existing schemes and to decide whether such aid is compatible with the functioning of the EEA Agreement, the Authority will propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that EFTA States should notify it in advance of any individual case of investment aid granted under an existing scheme where the eligible costs exceed EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million. Notification will be given by means of the form of which a model is shown in the Annex to these guidelines.
69. The Authority will also propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that EFTA States should bring their existing environmental aid schemes into line with these guidelines before 1 January 2002.
70. The Authority will ask the EFTA States to confirm within one month of receipt of the proposed measures referred to in points 67 to 69 that they agree to the proposals. In the absence of any reply, the Authority will take it that the relevant EFTA State does not agree.
71. The Authority would point out that, with the exception of aid classed as *de minimis* aid under Commission Regulation (EC) No 69/2001⁽⁴⁹⁾, which is to be implemented in the EEA Agreement through Annex XV, these guidelines do not affect the obligation incumbent on Member States under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement to notify any individual aid granted to firms outside the framework of authorised schemes.
72. The Authority intends to ensure that any authorisation for a future scheme complies with these guidelines.

I. ***Application of the guidelines***

73. These guidelines will apply from the date of their adoption by the EFTA Surveillance Authority. They will cease to be applicable on 31 December 2007. After consulting the EFTA States, the Authority may amend them before that date on the basis of important competition policy or environmental policy or environmental policy considerations or in order to take account of other policies.
74. The Authority will apply these guidelines to all aid projects notified in respect of which it is called upon to take a decision after the guidelines are adopted by the EFTA Surveillance Authority, even where the projects were notified prior to the adoption.

In the case of non-notified aid, the Authority will apply:

- (a) these guidelines if the aid was granted after their adoption;
- (b) the 1994 guidelines on aid for environmental protection, published in *Official Journal of the European Communities* L 231 of 3 September 1994, when aid is granted in all other cases.

⁽⁴⁹⁾ OJ L 10, 13.1.2001, p. 30.

J. ***Integration of environmental policy into other State aid guidelines***

75. Articles 73 to 75 of the EEA Agreement call for the requirements of environmental protection to be included in the implementation of other policies of the EFTA States.

When the Authority adopts or revises other guidelines or frameworks on State aid, it will consider how the present requirements can best be taken into account. It will also examine whether it would not be expedient to ask the EFTA States to provide an environmental impact study whenever they notify it of an important aid project, irrespective of the sector involved.

ANNEX

Additional information ordinary to be supplied when notifying State aid for environmental purposes under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement

(Schemes, cases of aid granted under an approved scheme, and one-off aid measures)

1. *Objectives*

Detailed description of the objectives of the measure, and of the type of environmental protection it is intended to promote.

2. *Description of the measure*

Detailed description of the measure and of the recipients.

Description of the total costs of the investments involved and of the eligible costs.

If the measure in question has already been applied in the past, what environmental results have been obtained?

If the measure is a new one, what environmental results are anticipated, and over what period?

If the aid is to be granted towards an improvement on standards, what are the standards applicable, and in what way does the measure allow an appreciably higher level of environmental protection to be achieved?

If the aid is to be granted in the absence of standards, please give a detailed description of the way.'

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 1961/2001 of 8 October 2001 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables**

(Official Journal of the European Communities L 268 of 9 October 2001)

On page 13, Article 6(4), for all the language entries:

for: '.../2001'

read: '1961/2001'.

Corrigendum to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas

(Official Journal of the European Communities L 341 of 22 December 2001)

On page 52, in Annex II, part II.D, for order numbers 6 and 8, in column 5 'Import duty (EUR/100 kg net weight without further indication)':

for: '17,54'

read: '13,15'.
