

PROTOCOL**on the extension of the cooperation agreement between the European Community and the member countries of ASEAN to the Socialist Republic of Vietnam**

THE COUNCIL OF THE EUROPEAN UNION,

of the one part,

THE GOVERNMENT OF BRUNEI-DARUSSALAM,

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA,

THE GOVERNMENT OF MALAYSIA,

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES,

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE,

THE GOVERNMENT OF THE KINGDOM OF THAILAND,

and

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM,

of the other part,

HAVING REGARD to the Cooperation Agreement between the European Economic Community and Indonesia, Malaysia, the Philippines, Singapore and Thailand, member countries of the Association of South-East Asian Nations signed on 7 March 1980 in Kuala Lumpur, and extended to Brunei-Darussalam on 16 November 1984, hereinafter referred to as the 'Agreement',

WHEREAS Vietnam as a new member of the Association of South-East Asian Nations has applied to accede to the Agreement,

HAVE DECIDED to extend the Agreement to Vietnam and this end have designated as their Plenipotentiaries:

THE COUNCIL OF THE EUROPEAN UNION:

Hans VAN MIERLO

Deputy Prime Minister and Minister for Foreign Affairs of the Netherlands,
President-in-Office of the Council of the European Union

Manuel MARIN

Vice-President of the Commission of the European Communities

THE GOVERNMENT OF BRUNEI-DARUSSALAM:

Prince MOHAMED BOLKIAH

Minister of Foreign Affairs

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA:

ALI ALATAS

Minister for Foreign Affairs

THE GOVERNMENT OF MALAYSIA:

DATUK ABDULLAH HAJI AHMAD BADAWI

Minister of Foreign Affairs

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES:

Domingo L. SIAZON, JR.

Secretary of Foreign Affairs

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE:

Professor S. JAYAKUMAR

Minister for Foreign Affairs

THE GOVERNMENT OF THE KINGDOM OF THAILAND:

PRACHUAB CHAIYASAN

Minister of Foreign Affairs

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM:

NGUYEN MANH CAM
Minister of Foreign Affairs

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1

Vietnam accedes to the Agreement by virtue of this Protocol.

Article 2

The provisions of the Agreement together with the Protocol concerning Article 1 of the Agreement shall apply to Vietnam.

Article 3

The application of the Agreement to Vietnam shall not affect the application of the Cooperation Agreement between the European Community and the Socialist Republic of Vietnam signed on 17 July 1995 and which entered into force on 1 June 1996.

Article 4

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

Article 5

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

Hecho en Singapur, el catorce de febrero de mil novecientos noventa y siete.

Udfærdiget i Singapore den fjortende februar nitten hundrede og syvoghalvfems.

Geschehen zu Singapur am vierzehnten Februar neunzehnhundertsiebenundneunzig.

Έγινε στη Σιγκαπούρη, στις δεκατέσσερις Φεβρουαρίου χίλια εννιακόσια ενενήντα επτά.

Done at Singapore on the fourteenth day of February in the year one thousand nine hundred and ninety-seven.

Fait à Singapour, le quatorze février mil neuf cent quatre-vingt-dix-sept.

Fatto a Singapore, addì quattordici febbraio millenovecentonovantasette.

Gedaan te Singapore, de veertiende februari negentienhonderd zevenennegentig.

Feito em Singapura, em catorze de Fevereiro de mil novecentos e noventa e sete.

Tehty Singaporessa neljäntenätoista päivänä helmikuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäseitsemän.

Som skedde i Singapore den fjortonde februari nittonhundranittiosju.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

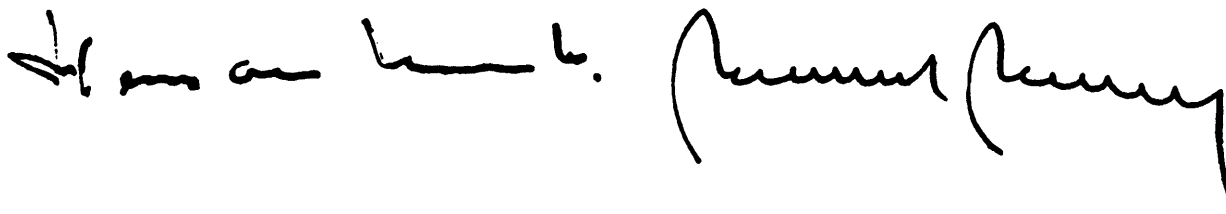
Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

A large, stylized handwritten signature in black ink, likely representing the European Commission, consisting of several loops and a long horizontal stroke.

For the Government of Brunei-Darussalam

A handwritten signature in black ink, appearing to be 'M. D. Kil', with a horizontal line underneath.

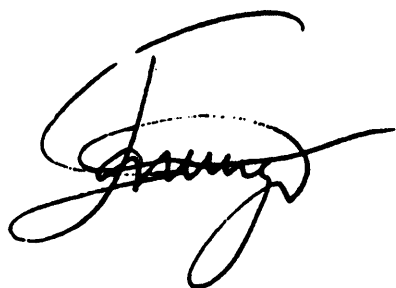
For the Government of the Republic of Indonesia

A handwritten signature in black ink, appearing to be 'S. H. S.', with a horizontal line underneath.

For the Government of Malaysia

A handwritten signature in black ink, appearing to be 'A. M. M.', with a horizontal line underneath.

For the Government of the Republic of the Philippines



For the Government of the Republic of Singapore



For the Government of the Kingdom of Thailand



For the Government of the Socialist Republic of Vietnam



COUNCIL DECISION

of 26 April 1999

amending Decision 93/389/EEC for a monitoring mechanism of Community CO₂
and other greenhouse gas emissions

(1999/296/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s(1) thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾,

(1) Whereas all Member States and the Community are Parties to the United Nations Framework Convention on Climate Change (UNFCCC) which, from its entry into force on 21 March 1994, commits all Parties to develop, periodically update, publish and report to the Conference of the Parties national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies agreed upon by the Conference of the Parties;

(2) Whereas that same Convention commits all Parties to formulate, implement, publish and regularly update national, and where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol;

(3) Whereas the First Conference of the Parties to the UNFCCC decided that Annex I Parties to the said Convention should submit to the secretariat national inventory data on emissions by sources and removals by sinks on an annual basis and that the guidelines for national greenhouse gas invent-

ories and technical guidelines for assessing climate change impacts and adaptations adopted by the Intergovernmental Panel on Climate Change should be used in preparing their reports pursuant to the Convention;

(4) Whereas it is necessary to amend Decision 93/389/EEC ⁽⁴⁾ to allow for the updating of the monitoring process, in particular the post-2000 monitoring of greenhouse gas emission limitations and reductions and its application to all anthropogenic greenhouse gas emissions not controlled by the Montreal Protocol, in line with the obligations of the UNFCCC and taking into account the requirements of the Kyoto Protocol to that Convention, adopted by the Third Conference of the Parties to the UNFCCC on 10 December 1997;

(5) Whereas it is vital to be able to assess accurately and regularly the extent of progress being made towards the Community's commitments under the UNFCCC and the Kyoto Protocol to that Convention;

(6) Whereas the Community considers the monitoring mechanism to be an essential instrument in the assessment of this progress;

(7) Whereas the Kyoto Protocol requires Annex I Parties to have made demonstrable progress in achieving their commitments under the Protocol by 2005;

(8) Whereas the provisions of the monitoring mechanism established under Decision 93/389/EEC need to apply equally to anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol and the monitoring process should continue to be updated to reflect further decisions in the framework of the Kyoto Protocol;

⁽¹⁾ OJ C 120, 18.4.1998, p. 22.

⁽²⁾ OJ L 89, 19.3.1997, p. 7.

⁽³⁾ Opinion of the European Parliament of 18 September 1997 (OJ C 304, 6.10.1997, p. 109), Council Common Position of 16 June 1998 (OJ C 333, 30.10.1998, p. 38) and Decision of the European Parliament of 9 February 1999 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 167, 9.7.1993, p. 31.

- (9) Whereas it is recognised that the 31 July deadline for reporting inventories provided for by Decision 93/389/EEC is difficult to meet for all Member States;
- (10) Whereas at its meeting of 22 and 23 June 1995 the Council reaffirmed the determination of the Community to meet its commitments under the Convention and confirmed its conclusions of 29 October 1990, 15 and 16 December 1994 and 9 March 1995;
- (11) Whereas Decision 93/389/EEC should be amended accordingly,

- the fulfilment of the Community's commitments relating to the limitation and/or reduction of all greenhouse gas emissions not controlled by the Montreal Protocol under the UN Framework Convention on Climate Change and under the Kyoto Protocol,
- transparent and accurate monitoring of the actual and projected progress of Member States, including the contribution made by Community measures, in meeting any agreed national contributions to the Community's commitments under the UN Framework Convention on Climate Change and the Kyoto Protocol.

These programmes shall be periodically updated.

HAS ADOPTED THIS DECISION:

2. Each Member State shall include in its national programme:

Article 1

Articles 1 to 8 of Decision 93/389/EEC shall be replaced by the following:

Article 1

This Decision establishes a mechanism for:

- monitoring all anthropogenic greenhouse gas emissions not controlled by the Montreal Protocol in the Member States; and
- evaluating progress towards meeting commitments in respect of these emissions.

Article 2

National programmes

1. The Member States shall devise, publish and implement national programmes for limiting and/or reducing their anthropogenic emissions by sources and enhancing removals by sinks of all greenhouse gases not controlled by the Montreal Protocol in order to contribute to:

- the stabilisation of CO₂ emissions by 2000 at 1990 levels in the Community as a whole, assuming that other leading countries undertake commitments along similar lines, and on the understanding that Member States which start from relatively low levels of energy consumption and therefore low emissions measured on a per capita or other appropriate basis are entitled to have CO₂ targets and/or strategies corresponding to their economic and social development, while improving the energy efficiency of their economic activities, as agreed at the Council meetings of 29 October 1990, 13 December 1991 and 15 and 16 December 1994,

(a) estimates of the effect of policies and measures on emissions and removals and incorporation of these in projections for CO₂ and other greenhouse gases not controlled by the Montreal Protocol between the base year and 2000, in line with the reporting requirements under the UN Framework Convention on Climate Change;

(b) as a minimum for the six greenhouse gases listed in Annex A to the Kyoto Protocol (carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆),

- its 1990 base year anthropogenic emissions of carbon dioxide, methane and nitrous oxide in accordance with Article 3(1),

- its 1990 and/or 1995 base year anthropogenic emissions of hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride determined in accordance with Article 3(1),

- inventories of its anthropogenic emissions by sources and removal by sinks, determined in accordance with Article 3(1),

- details of national policies and measures implemented or committed to since the base year which contribute significantly to its efforts to reduce emissions and enhance sinks of greenhouse gases, organised by gas and by sector and including the objective of the measure, the type of policy instrument used by measure, the status of implementation of the policy or measure as well as, where possible, intermediate indicators of progress for policies and measures,

- measures being taken or envisaged for the implementation of relevant Community legislation and policies,
- estimates of the effect of policies and measures on emissions and removals and incorporation of these in projections:

- (i) for the greenhouse gases listed in Annex A to the Kyoto Protocol between the base year and the period 2008 to 2012; and
- (ii) to the extent possible, for the greenhouse gases listed in Annex A to the Kyoto Protocol between the base year and 2005,

in accordance with the procedure set out in Article 8, on the basis of standard procedural guidelines, including information for a quantitative understanding of the key assumptions used to develop the said projections and the methodology used for the provision of the estimates,

- an assessment of the economic impact of the above measures, to the extent possible;

(c) information on the following gases: carbon monoxide (CO), nitrogen oxides (NO_x), non methane volatile organic compounds (NMVOCs) and sulphur oxides, in line with the reporting requirements under the UNFCCC, including:

- data on emissions,
- a description of policies and measures being taken or envisaged for the limitation and/or reduction of the emissions of these gases,
- as far as possible, estimates for emissions projections at regular intervals in the future and as being agreed upon in accordance with the procedure set out in Article 8, on the basis of standard procedural guidelines, including information for a quantitative understanding of the key assumptions and the methodology used for the provision of the estimates.

Article 3

Inventories and data reporting

1. Member States shall determine their anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, as specified in Article 2(2), in accordance with the methodologies accepted by the IPCC and agreed upon by the Conference of the Parties. They shall be revised, in accordance with the procedure under Article 8, as appropriate, to take fully into

account any relevant future decisions by the Conference of the Parties.

2. Member States shall each year, not later than 31 December, report to the Commission their anthropogenic CO₂ emissions and CO₂ removal by sinks for the previous calendar year.

Member States shall also report national inventory data on emissions by sources and removals by sinks of the other greenhouse gases referred to in Article 2(2) on an annual basis. They shall report to the Commission by 31 December their final data for the previous year but one, and provisional data for the previous year.

Member States shall also report by 31 December on the most recent projected emissions by sources and removals by sinks of the greenhouse gases listed in Annex A to the Kyoto Protocol for the period 2008 to 2012 and, as far as possible, for 2005.

The Commission shall take further steps to promote the comparability and transparency of national inventories and reporting.

3. The Commission shall, in cooperation with the Member States, establish, on the basis of the information provided by them, inventories of anthropogenic greenhouse gas emissions and removal by sinks in the Community. The Commission shall circulate to all Member States by 1 March these inventories based on data received in accordance with paragraph 2.

Article 4

Procedures and methods for evaluation

In accordance with the procedure referred to in Article 8, the Commission shall establish procedures and methods for the evaluation of national programmes as referred to in Article 6 and the frequency of updating by the Member States.

Article 5

Evaluation of national programmes and of the state of emissions in the Community

1. Member States shall forward to the Commission their existing national programmes not already forwarded, or updates of programmes already forwarded, within three months of receiving notification of this Decision.

Future national programmes and their updates shall be forwarded to the Commission within three months of their adoption.

2. The Commission shall forward to the other Member States the national programmes received within one month of their reception.

3. The Commission shall evaluate the national programmes, in order to assess whether progress in the Community as a whole is sufficient to ensure fulfilment of the commitments referred to in Article 2(1).

4. The Commission shall report to the European Parliament and the Council the results of its evaluation within six months of the reception of the national programmes.

The European Environment Agency will assist in compiling this report as appropriate, in accordance with its annual work programme.

Article 6

Evaluation of progress

The Commission shall assess annually in consultation with Member States whether the actual and projected progress of Member States, including the contribution made by Community measures, towards fulfilling the Community's commitments under the UNFCCC and the Kyoto Protocol is sufficient to ensure that the Community and its Member States are on course to fulfil their commitments and shall report to the European Parliament and the Council, on the basis of information received under Articles 2, 3 and 5. The Commission's report shall be made available to the European Parliament and the Council even in the case of incomplete data being received from Member States, and the Commission may include in this case the best available data in the report, in consultation with the Member State concerned.

Article 7

Other greenhouse gases

(deleted)

Article 8

Committee

1. The Commission shall be assisted by a committee composed of the representatives of the

Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.'

Article 2

This Decision shall enter into force on 1 May 1999.

Article 3

This Decision is addressed to the Member States.

Done at Luxembourg, 26 April 1999.

For the Council

The President

J. FISCHER

COUNCIL DECISION

of 26 April 1999

establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors

(1999/297/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the draft Decision submitted by the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

- (1) Whereas in order to implement Community policies on the industry and markets of the audiovisual and related sectors it is necessary to establish a Community statistical information infrastructure;
- (2) Whereas the European Council, in particular in the White Paper on growth, competitiveness and employment stresses the economic importance of the audiovisual sector and the Bangemann Group report, entitled 'Europe and the global information society — recommendations to the European Council', recognises the strategic importance of the audiovisual programme industry;
- (3) Whereas a reliable information infrastructure must be organised by means of individual statistical actions;
- (4) Whereas Council Decision 93/464/EEC of 22 July 1993 on a framework programme for priority actions in the field of statistical information 1993 to 1997⁽²⁾ specified that the audiovisual sector should be regarded as one of the priority service sectors at Community level and provided for the establishment of a new information system based on the 'enterprise' approach and functional statistics;
- (5) Whereas Annex I, Title III of the Community Statistical Programme 1998 to 2002⁽³⁾ refers to the carrying out of user requirement analyses, source assessment, data collection and testing of methods by pilot studies in the audiovisual sector;
- (6) Whereas these pilot studies should be reviewed to ensure they meet user requirements; whereas this should be undertaken within two and a half years; whereas the results of this review should be

communicated to the European Parliament and the Council; whereas at all stages additional burdens on small and medium-sized enterprises (SMEs) should be minimised;

- (7) Whereas individual statistical actions are governed by Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics⁽⁴⁾;
- (8) Whereas, by virtue of the principle of subsidiarity, the objective of the proposed individual statistical actions can be achieved only by a Community legal instrument, as only the Commission is in a position to coordinate the requisite harmonisation of information at Community level;
- (9) Whereas, within the framework of the Council of Europe, the European Audiovisual Observatory, of which the Commission is a member, constitutes *inter alia* an important source of information for its members and their professionals and whereas it is necessary to ensure complementarity between the work undertaken under this Decision and the work of the Observatory;
- (10) Whereas the statistical methodologies proposed for the audiovisual sector should be compatible and consistent with the existing European standards and methodologies;
- (11) Whereas the Statistical Programme Committee established by Decision 89/382/EEC, Euratom⁽⁵⁾, has been informed in accordance with Article 3 of that Decision,

HAS ADOPTED THIS DECISION:

*Article 1***Objective**

The objective of this Decision is to establish the Community statistical information infrastructure necessary for the development and implementation of a Community policy on the industry and markets of the audiovisual and related sectors.

⁽¹⁾ Opinion delivered on 9 March 1999 (not yet published in the Official Journal).

⁽²⁾ OJ L 219, 28.8.1993, p. 1.

⁽³⁾ OJ L 42, 16.2.1999, p. 12.

⁽⁴⁾ OJ L 52, 22.2.1997, p. 1.

⁽⁵⁾ OJ L 181, 28.6.1989, p. 47.

*Article 2***Individual statistical actions**

The objective described in Article 1 shall be implemented by individual statistical actions in accordance with Regulation (EC) No 322/97 as follows:

1. by the national authorities:
 - (a) analysis and evaluation of the demand for statistics (firms, functions and products) on the audiovisual sector from users (Community institutions, government departments, national sectoral bodies, international organisations, economic operators) and the effect on businesses, especially SMEs, of the collection of statistics in the audiovisual sector;
 - (b) analysis of existing statistics (firms, functions and products) and their sources;
 - (c) annual forwarding to Eurostat of statistics (firms, functions and products) already on hand or available from the competent national authorities;
 - (d) voluntary participation in pilot studies to test working methods in practice and promote the creation of Community statistics (firms, functions and products);
2. by Eurostat:
 - (a) preparation of a Community institutional and functional methodological framework (firms, functions and products);
 - (b) creation of a database for statistics forwarded in accordance with paragraph 1(c) and data gathered from international organisations;
 - (c) comparison of existing statistical systems in Member States and some non-Member States, especially the pre-accession States;
 - (d) assessment of the relevance of, and future needs for, statistics in the audiovisual sector, especially in terms of data needed for the development and follow-up of employment, training and equal opportunities policy.

*Article 3***Implementation**

The measures necessary for the implementation of the individual statistical actions set out in Article 2 shall be decided in accordance with the procedure referred to in Article 4.

*Article 4***Procedure**

1. The Commission shall be assisted by the Statistical Programme Committee.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
3. (a) The Commission shall adopt measures which shall apply immediately.
 - (b) However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:
 - the Commission shall defer application of the measures which it has decided for a period of three months from the date of the communication,
 - the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

*Article 5***Reports**

The Commission shall present an interim report and a final report to the European Parliament and the Council on the implementation of the measures provided for in Article 2. The interim report should be drawn up no later than two and a half years after the entry into force of this Decision. The final report shall be presented within five years of the entry into force of this Decision.

These reports shall consider, *inter alia*, the relevance of collecting statistics in the audiovisual sector in the light of the priorities set for the 1998 to 2002 Community Statistical Programme, and the resources available both at Eurostat and the national statistical offices.

Following these reports, the Commission may propose any changes necessary to improve the operation of this Decision.

*Article 6***Budget**

The appropriations to be allocated to carrying out the actions provided for in Article 2 shall be adopted by the budgetary authority as part of the annual budgetary procedure.

*Article 7***Duration**

This Decision shall expire five years after its adoption.

Article 8

This Decision is addressed to the Member States.

Done at Luxembourg, 26 April 1999.

For the Council

The President

J. FISCHER

COMMISSION

COMMISSION DECISION

of 10 June 1998

on State aid that the Liguria region (Italy) plans to grant to agricultural co-operatives

(notified under document number C(1998) 1714)

(Only the Italian text is authentic)

(1999/298/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2) thereof,

Having, in accordance with the abovementioned Article, given notice to the parties concerned to submit their comments ⁽¹⁾,

Whereas:

I. BACKGROUND

By letter of 31 July 1997, receipt of which was recorded on 1 August 1997, the Permanent Representation of Italy to the European Union notified the Commission, in accordance with Article 93(3) of the Treaty, of the aid measures that the Liguria Region plans to grant to agricultural cooperatives by draft Law No 85 of 9 May 1997 (hereinafter referred to as 'the draft Law'). By letter of 23 October 1997, recorded on 27 October 1997, the Permanent Representation of Italy sent the Commission the additional information requested.

By letter of 12 January 1998, the Commission informed Italy of its decision to initiate the procedure provided for in Article 93(2) of the Treaty in respect of those aid measures.

The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾; the Commission has called on the other Member States and the other parties concerned to submit their comments on the matter.

The Commission has received no comments from the other Member States or the other parties concerned.

II. DESCRIPTION OF THE MEASURES

The draft Law relates to structural measures for agricultural cooperatives. It provides for capital grants of up to 55 % of the total permissible expenditure on investments in the following:

- the construction, restructuring, extension and purchase of facilities for the collection, storage, processing and marketing of agricultural products and the purchase of plant and equipment,
- the construction of marketing centres,
- the purchase of the land required to establish the abovementioned facilities.

The investments must comply with the 'Guidelines for State aid in connection with investments in the processing and marketing of agricultural products' ⁽³⁾ (hereinafter referred to as 'the Community guidelines') and with the limits laid down for specific sectors in Commission Decision 94/173/EC ⁽⁴⁾.

The overall budget for the measures amounted to ITL 300 million for 1997. For the following years, the budget is to be determined later. By way of a transitional measure, Article 6 of the draft Law extends the benefit of the measure to projects where implementation was commenced after 1 January 1996.

The draft Law notified by the Italian authorities falls within the scope of the Community guidelines. In particular, certain provisions of the draft Law seek to ensure compliance with the limits applying to specific sectors.

⁽¹⁾ OJ C 101, 3.4.1998, p. 2.

⁽²⁾ See footnote 1.

⁽³⁾ OJ C 29, 2.2.1996, p. 4.

⁽⁴⁾ OJ L 79, 23.3.1994, p. 29.

Furthermore, all expenditure permissible under the draft Law (on land, buildings, plant and equipment) falls within the definition of investment in point 3(a)(ii) of the Community guidelines. Lastly, the rate of aid (55 %) corresponds to the maximum admissible for investments in regions (like Liguria) falling outside Objective 1.

Nevertheless, the fact that, under the draft Law, investment projects whose implementation was commenced after 1 January 1996 are considered eligible for the aid means in practice that aid could be granted retroactively to cooperatives for projects that are being executed or have even been completed.

As a general principle, the existence of clauses providing for retroactive application of State aid for productive investments normally does not foster the development of the sector or the region concerned. In such cases, the role of the aid in stimulating investment may be non-existent since these investment projects have been started without any supporting law. The Commission usually regards measures of this type as operating aid. The aid in question cannot therefore be regarded as contributing to the development of the sector and does not qualify under the derogation provided for in Article 92(3)(c) of the Treaty ⁽¹⁾.

In the light of the above, the Commission takes the view that the aid in question is operating aid, which it has consistently opposed when applying Articles 92, 93 and 94 of the Treaty in so far as by its very nature such aid does not contribute to the development of the sector or the region concerned ⁽²⁾. The planned measures directly improve the processing and marketing conditions enjoyed by the beneficiary producers as compared with those of other Community operators not benefiting from comparable aid. As a consequence, the aid measure under examination appears to fall within the scope of Article 92(1) of the Treaty but as far as the Commission can tell at present it does not match any of the exceptions provided for in paragraphs 2 or 3 of that Article.

The Commission has accordingly decided to initiate the procedure for in Article 93(2) of the Treaty in respect of the aid measure notified.

III. OBSERVATIONS OF THE ITALIAN AUTHORITIES

By letter of 10 March 1998, the Permanent Representation of Italy informed the Commission that the Liguria region was deleting Article 6 of the draft Law, which

contained the transitional provisions on the granting of the aid with retroactive effect.

By letter of 15 April 1998, the Italian authorities sent the Commission a copy of the draft Law adopted by the Liguria Regional Council, in which Article 6 of the previous version had been deleted.

IV. APPRAISAL OF THE AID MEASURE

At the time the Article 93(2) procedure was initiated, the Commission took the view that, once Article 6 of the draft Law was deleted, it complied with the Community guidelines.

The eligible expenditure does in fact correspond to that laid down in the Regulations, the limits applicable by sector are met and the rate of aid does not exceed the maximums laid down for regions falling outside Objective 1.

The deletion of Article 6 of the draft Law, which provided for the aid to apply retroactively before 1 January 1996, neutralises the Commission's objections to the aid measure under examination. The aid can therefore qualify under the derogation provided for in Article 92(3)(c) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The aid measures provided for in draft Liguria Regional Law No 85/97 to assist agricultural cooperatives are compatible with the common market. The aid may accordingly be granted.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 10 June 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ Judgment of the Court of Justice in Case 730/79 Philip Morris v. Commission [1980] ECR, p. 2671.

⁽²⁾ Judgment of the Court of First Instance in Case T-459/93 Siemens SA v. Commission [1995] ECR II, p. 1675.

COMMISSION DECISION
of 22 December 1998
on German aid to the coal industry for 1999
(notified under document number C(1998) 4569)
(Only the German text is authentic)
(Text with EEA relevance)

(1999/299/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry⁽¹⁾, in particular Article 2(1) and Article 9 thereof,

Having regard to Commission Decision of 2 December 1998 on German aid to the coal industry for 1998⁽²⁾,

Whereas:

I

By letters of 25 September 1998, 2 December 1998 and 14 December 1998, Germany notified the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, of the aid it intended to grant to the coal industry in 1999.

In accordance with the provisions of Decision No 3632/93/ECSC, the Commission gives its opinion on the following financial measures for 1999:

- (a) operating aid within the meaning of Article 3 totalling DEM 5 141 million;
- (b) aid for the reduction of activity within the meaning of Article 4 totalling DEM 3 220 million;
- (c) aid within the meaning of Article 3 totalling DEM 73 million to maintain an underground labour force (*Bergmannsprämie*);
- (d) aid within the meaning of Article 5 totalling DEM 11,3 million to assist the undertaking RAG Aktiengesellschaft to cover exceptional costs;
- (e) aid within the meaning of Article 5 totalling DEM 748 million to assist the undertakings RAG Aktiengesellschaft and Sophia Jacoba GmbH to cover the costs arising from or having arisen from the restructuring of the coal industry which are not related to current production (inherited liabilities).

The financial measures proposed by Germany for the coal industry fall within the scope of Article 1(1) of Decision No 3632/93/ECSC. In accordance with Article 9(4), the Commission is therefore required to give an opinion on these measures. For this purpose, it checks whether they conform to the general objectives and criteria defined in Article 2 and the specific criteria defined in Articles 3 and 4 of the Decision and whether they are compatible with the functioning of the common market. Furthermore, in accordance with Article 9(6), the Commission has to decide whether the notified measures are compatible with the plan for modernisation, rationalisation, restructuring and the reduction of activity approved by the Commission in its Decision of 2 December 1998.

II

The aid pursuant to Article 3, totalling DEM 5 141 million, is intended for the operation of the mines owned by the undertakings RAG Aktiengesellschaft, Preussag Anthrazit GmbH, Dr Arnold Schäfer GmbH and Merchweiler GmbH.

In the case of RAG Aktiengesellschaft, the aid is intended in particular to assist the mines Friedrich Heinrich/Rheinland, Niederberg, Walsum, Lohberg/Osterfeld, Prosper/Haniel, Westerholt, Auguste Victoria, Blumenthal/Haard and Heinrich Robert. The measure is also intended for the mines Ens Dorf and Warndt/Luisenthal, which have been owned by RAG Aktiengesellschaft since 1 January 1998. In the case of Preussag Anthrazit GmbH, the measure is intended for the site at Ibbenbüren.

This aid is intended to cover the difference between production costs and the sales price freely agreed on the basis of the conditions prevailing on the world market for coal of similar quality from third countries. It will permit the undertakings and production sites to take the measures required to achieve a gradual reduction in production costs.

According to the information supplied by Germany, the average production costs in the mines covered by Article 3 should in real terms be 8,2 % lower in 1999 than in 1995 at 1992 prices, namely DEM 246 per tce as compared with DEM 268 per tce. The reduction in production costs is in accordance with the aims of the

⁽¹⁾ OJ L 329, 30.12.1993, p. 12.

⁽²⁾ OJ L 109, 27.4.1999, p. 14.

plan for modernisation, rationalisation, restructuring and the reduction of activity, as approved by the Commission in its Decision of 2 December 1998.

measure is also intended for the Göttelborn/Reden mine, which has been owned by RAG Aktiengesellschaft since 1 January 1998.

If the conditions in Article 3 cannot be met by an undertaking, the Commission may, in its assessment of the notified measures, require Germany to justify any deviations from the 1998 – 2002 restructuring plan as amended by Germany and approved by the Commission on 2 December 1998 and, if necessary, propose corrective measures such as the inclusion of mines belonging to the undertaking in question in the closure plan in accordance with Article 4 of Decision No 3632/93/ECSC.

The abovementioned closures are part of the agreement of 13 March 1997 which will reduce production capacity by 10 million tce in comparison to 1997 (21 % of total production capacity) and lead to the shedding of 30 000 jobs between 1998 and 2002.

In its assessment of the operating aid pursuant to Article 3 of Decision No 3632/93/ECSC, the Commission has also taken account of the need to minimise the social and regional impact of the restructuring of coal mining in regions which are already affected by above average structural unemployment.

Pursuant to Article 4 of Decision No 3632/93/ECSC, the production sites Göttelborn/Reden, Ewald/Hugo and Westfalen will be completely closed down before the abovementioned Decision expires on 23 July 2002. The Commission notes that the undertaking RAG Aktiengesellschaft has decided to bring forward the closure of the Ewald/Hugo mine to 30 April 2000 (instead of July 2002) in the light of the aid ceiling and the fall in the prices of coal on the world market.

The fact is that unemployment in 1998 in the coalfields of the Ruhr stands at about 15 % (district of Duisburg 15,8 %, Recklinghausen 13,7 %, Gelsenkirchen 16,4 %), which is far above the West German average of 9,7 %. In the Saar too, unemployment is above average in the coal-mining areas (Saarbrücken 13,9 %, Saarlouis 11 %).

According to the information supplied by Germany, the production decrease between 1995 and 1999 is expected to be 15,2 %, or 8,6 million tce. The number of employees should fall by 25 680 or 25,5 % between 1995 and 1999.

The coalmining areas are also target areas for Community regional support (Objective 2 regions whose industrial development is lagging behind) and at the same time areas to be developed within the meaning of Article 92(3)(c) of the EC Treaty.

The Commission notes that the planned reduction in production capacity is in line with the aims of the plan for modernisation, rationalisation, restructuring and the reduction of activity which it approved by Decision of 2 December 1998.

On the basis of the information provided by Germany and the undertakings given (see section VI of this Decision), the operating aid proposed for 1999 is compatible with Decision No 3632/93/ECSC, in particular Articles 2 and 3 thereof.

The aid for the reduction of activity proposed for 1999 is compatible with Decision No 3632/93/ECSC, and in particular Articles 2 and 4 thereof.

IV

III

The aid totalling DEM 3 220 million proposed for the reduction of activity pursuant to Article 4 of Decision No 3632/93/ECSC is intended to cover the difference between production costs and the sales price freely agreed on the basis of the conditions prevailing on the world market for coal of similar quality from third countries. In the context of the undertaking RAG Aktiengesellschaft, it will assist the mines Fürst Leopold/Wulfen, Ewald/Hugo, Haus Aden/Monopol and Westfalen in particular. The

The aid totalling DEM 73 million to cover extra payments to German miners (*Bergmannsprämie*), which amount to DEM 10 per underground shift, is intended to provide an incentive for qualified staff to work underground and to help rationalise production. According to the German notification, this aid to miners is a pecuniary benefit. Although the extra payments are not part of the production costs of the coalmining undertakings, the aid helps to reduce the undertakings' wage costs. It is therefore 'aid' within the meaning of Article 1(2) of Decision No 3632/93/ECSC, which must be examined on the basis of Article 3 of that Decision.

The proposed aid helps to maximise productivity and thus facilitates the restructuring and rationalisation of mining. It therefore also helps to achieve the objective referred to in the first indent of Article 2(1) of Decision No 3632/93/ECSC, namely, in the light of coal prices on international markets, to make further progress towards economic viability with the aim of achieving degression of aids.

In its assessment of the aid, the Commission has taken account, in accordance with the second indent of Article 2(1) of the abovementioned Decision, of the need to minimise the social and regional impact of restructuring.

The aid helps, in keeping with Article 3 of Decision No 3632/93/ECSC, to improve slightly the deficient competitiveness of the undertakings concerned, since the increase in productivity due to the maintenance of a qualified underground labour force reduces production costs.

Germany gives its assurance that the aid, together with any other aid for current production, will not exceed the difference between production costs and expected income in any undertaking or production unit.

In the light of the above and on the basis of the information provided by Germany, the aid to maintain an underground labour force (*Bergmannsprämie*) proposed for 1999 is compatible with the objectives of Decision No 3632/93/ECSC, in particular Articles 2 and 3 thereof.

V

The aid to assist the undertakings RAG Aktiengesellschaft and Sophia Jacoba GmbH to cover exceptional costs in accordance with Article 5 of Decision No 3632/93/ECSC amounts to DEM 759,3 million.

This financial measure includes, firstly, aid amounting to DEM 11,3 million to cover exceptional costs to assist the undertaking RAG Aktiengesellschaft.

The aid is intended to cover additional drainage costs in mines closed down as part of restructuring and near to working pits. Since little or no water is pumped out of the closed-down mines, water which has nothing to do with existing production flows into the working pit nearby, thereby giving rise to additional costs.

This aid, which is not related to current production and is specifically provided for in section I(i) and section II(b) of the Annex to Decision No 3632/93/ECSC, covers

expenditure, resulting from restructuring, on the supply of water and the removal of waste water. To meet the requirements of Article 5 of the Decision, the special aid may not exceed the expenditure.

The Commission has examined the agreements between the public authorities and the undertakings concerned and, as part of an audit, the information given with regard to costs and has ascertained that the aid does not exceed the earmarked resources.

This will make it possible to reduce the pressure on the undertakings concerned, which will reduce their financial imbalance and enable them to continue their activities. The aid therefore complies with the objectives given in Article 2(1) of Decision No 3632/93/ECSC.

The abovementioned financial measure includes, secondly, aid to cover exceptional costs amounting to DEM 748 million to assist the undertakings RAG Aktiengesellschaft and Sophia Jacoba GmbH.

The aid is intended to cover the costs arising from or having arisen from the restructuring of the coal industry which are not related to current production (inherited liabilities).

A portion of this aid, amounting to DEM 609 million, is the result of decisions taken by mining undertakings and electricity producers, the Federal Government, the State Governments of North Rhine-Westphalia and the Saar and the trade union representing the mining industry during the negotiations ('Kohlerunde') on 11 November 1991. The remaining DEM 139 million is the result of new closures decided on 13 March 1997.

It is intended to cover the following costs, except the costs of social benefits which the State has taken on as a special contribution within the meaning of Article 56 of the ECSC Treaty: the costs of paying social-welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age, other exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalisation, the payment of pensions and allowances outside the statutory system to workers who lose their jobs as a result of restructuring and rationalisation and to workers entitled to such payments before the restructuring, supply of free coal to workers who lost their jobs as a result of restructuring and rationalisation and to workers entitled to such supply before the restructuring. From a technical and financial viewpoint, it is

intended to cover additional underground safety work resulting from restructuring and exceptional intrinsic depreciation, provided that it results from the restructuring of the industry.

This aid to cover the costs expressly referred to in section I(a), (b), (c), (d), (f) and (k) of the Annex to Decision No 3632/93/ECSC may not exceed the said costs if it is to be in conformity with Article 5 of the abovementioned Decision.

The Commission has examined the information regarding the costs as part of an audit and has ascertained that the aid does not exceed the earmarked resources.

This will make it possible to reduce the pressure on the undertakings concerned, which will reduce their financial imbalance and consequently enable them to continue their activities. The aid therefore complies with the objectives set out in Article 2(1) of Decision No 3632/93/ECSC.

VI

In the light of the aim to minimise the aid and in accordance with its own principle that aid is only to be paid for production which is supplied for electricity generation and to the Community iron and steel industry, Germany undertakes to sell the production intended for use by industry and as domestic coal at prices (net prices without discounts) which cover the production costs.

The Commission notes that Germany has included in regulations the measures needed to ensure that the aid granted under this Decision does not exceed the difference between production costs and the selling price for delivery to user undertakings freely agreed between the contracting parties on the basis of the conditions prevailing on the world market. The aid per tonne of current production may not cause prices for Community coal to fall below those of coal of a similar quality from third countries. Germany will also take care to ensure that the aid does not distort competition or produce discrimination between coal producers or between coal buyers and coal users in the Community.

Germany gives its assurance pursuant to the provisions of Article 86 of the ECSC Treaty that the aid will be limited to what is absolutely essential, taking account of social and regional considerations relating to the decline of coalmining in the Community, and that it will not provide an economic advantage, either directly or indirectly, for any activity other than coalmining, such as for industrial activities relating to the mining or processing of coal from the Community.

Furthermore, the Commission would remind Germany that an essential feature of the aid rules is that the aid must be in the Community interest and must not disturb the functioning of the common market.

To enable the Commission to examine whether the undertakings which receive operating aid under Article 3 of Decision No 3632/93/ECSC actually generate a trend towards a reduction in production costs at world prices, Germany undertakes to notify the Commission no later than 30 September of each year of the production costs of each production unit during the previous year and to transmit all information pursuant to Article 9 of Decision No 3632/93/ECSC. Should it not be possible to any great extent to meet the conditions laid down in Article 3(2) of Decision No 3632/93/ECSC, Germany will propose the necessary corrective action to the Commission, such as a review of the classification of mines pursuant to Articles 3 and 4 of Decision No 3632/93/ECSC.

The Commission is required, in accordance with the second indent of Article 3(1) and Article 9(2) and (3) of Decision No 3632/93/ECSC, to verify whether the aid granted for current production achieves the objectives set out in Articles 3 and 4 of the Decision. Germany must therefore communicate, no later than 30 September 2000, the level of aid actually paid in 1999 and any changes to the sums originally notified. In this annual list, Germany is to provide all information required for verifying compliance with the criteria laid down in the abovementioned Articles.

In approving the aid, the Commission has taken account of the need to minimise the social and regional impact of restructuring,

HAS ADOPTED THIS DECISION:

Article 1

Germany is hereby authorised to take the following measures to assist the coal industry:

- (a) operating aid as defined in Article 3 of Decision No 3632/93/ECSC totalling DEM 5 141 million;
- (b) aid for the reduction of activity as defined in Article 4 of Decision No 3632/93/ECSC totalling DEM 3 220 million;
- (c) aid as defined in Article 3 of Decision No 3632/93/ECSC totalling DEM 73 million to maintain an underground labour force (*Bergmannsprämie*);
- (d) aid as defined in Article 5 of Decision No 3632/93/ECSC totalling DEM 11,3 million to assist the undertaking RAG Aktiengesellschaft to cover exceptional costs;
- (e) aid as defined in Article 5 of Decision No 3632/93/ECSC totalling DEM 748 million to assist the undertakings RAG Aktiengesellschaft and Sophia Jacoba GmbH to cover exceptional costs to enable the undertakings to cover the costs arising from or having arisen from the restructuring of the coal industry which are not related to current production.

Article 2

In accordance with Article 86 of the ECSC Treaty, Germany undertakes to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising from this Decision.

Germany shall ensure that the aid granted, as referred to in Article 1, is used only for the specified purposes and that any unused, overestimated or misused expenditure in relation to any items referred to in Article 1 is repaid to Germany.

Article 3

Germany shall provide information no later than 30 September 2000 about payments actually made during the 1999 financial year and shall forward the information, pursuant to Article 9 of Decision No 3632/93/ECSC.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 22 December 1998.

For the Commission

Christos PAPOUTSIS

Member of the Commission

DECISION No 1/99 OF THE ACP-EC CUSTOMS COOPERATION COMMITTEE

of 25 March 1999

derogating from the definition of 'originating products' to take account of the special situation of Mauritius regarding the production of certain fabrics and garments

(notified under document number C(1998) 4557)

(1999/300/EC)

THE ACP-EC CUSTOMS COOPERATION COMMITTEE,

Having regard to the Fourth ACP-EEC Convention signed at Lomé on 15 December 1989 as revised by the Agreement signed in Mauritius on 4 November 1995, and in particular Article 31 (1 to 10) of Protocol 1 thereto,

Whereas the said Protocol provides for derogations from the rules of origin to be granted whenever the development of an existing industry or the establishment of a new one warrants it;

Whereas on 12 October 1998 the African, Caribbean and Pacific States (ACP States) submitted a request, on behalf of the Government of Mauritius, for a derogation from the rule of origin in the Protocol, in respect of certain textiles produced by this country from 1 September 1998 to 29 February 2000;

Whereas the derogation is requested under the relevant provisions of Protocol 1, particularly with regard to Article 31(5) concerning island ACP States and the economic and social impact in Mauritius of granting the derogation;

Whereas there is a global overcapacity for the products concerned and the Community textiles industry is already subject to intense competitive pressure; whereas, in particular, labour costs are fundamental to the pricing; whereas any additional opening of the market beyond the one granted in this decision to products from countries with low labour costs would distort competition and cause serious damage to Community industries manufacturing fabrics;

Whereas in the framework of the Community's textile policy, the products concerned by this decision are considered to be particularly sensitive and are subject to quantitative restrictions or a double-checking system on importation into the Community;

Whereas the derogation, limited in quantities, would not cause serious injury to an established Community industry taking into account the quantities of the imports envisaged; provided that certain conditions relating to quantities, surveillance and duration are respected;

Whereas therefore, pursuant to Article 31(1), a derogation can be granted to Mauritius in respect of garments for the requested quantities and in respect of fabrics for a limited quantity for the period from 1 January 1999 to 29 February 2000,

HAS DECIDED AS FOLLOWS:

Article 1

By way of derogation from the special provisions in the list in Annex II to Protocol 1 of the Fourth ACP-EEC Convention, certain textiles listed in the Annex to this Decision, manufactured in Mauritius from non-originating grey woven fabric and yarn imported into that country shall be regarded as originating in Mauritius in accordance with the terms of this Decision.

Article 2

The derogation provided for in Article 1 shall apply to the products and the quantities shown in the Annex to this Decision which are imported into the Community from Mauritius during the period 1 January 1999 to 29 February 2000.

Article 3

The quantities referred to in the Annex shall be managed by the Commission, which shall take all administrative action it deems advisable for their efficient management.

Where an importer presents in a Member State a declaration of entry for free circulation including an application for the benefit of this Decision, the Member State shall, if the declaration has been accepted by the customs authorities, notify the Commission of its wish to draw the amount corresponding to its requirements.

Applications to draw showing the date of acceptance of declarations shall be transmitted to the Commission without delay.

Withdrawals shall be granted by the Commission in order of date of acceptance of declarations of entry for free circulation by the Member States' customs authorities provided that the available balance permits.

If a Member State fails to use a withdrawal it shall return it as soon as possible to the appropriate quota.

If requests exceed the available balance of a given quota, quantities shall be allocated on a pro-rata basis. The Commission shall inform the Member States of withdrawal on the quotas.

Each Member State shall ensure that importers have continuous and equal access to the amounts available as long as the balance permits.

Article 4

The customs authorities of Mauritius shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1. To that end, all the certificates they issue pursuant to this Decision shall bear a reference to it. The competent authorities of Mauritius shall forward to the Commission every three months a statement of the quantities in respect of which movement certificates EUR.1 have been issued pursuant to this Decision, and the serial numbers of those certificates.

Article 5

Box 7 of EUR.1 certificates issued under this Decision shall contain the words:

'Derogation — Decision No 1/99'.

Article 6

The African, Caribbean and Pacific States (ACP States) and the Member States and the European Community shall take the measures necessary on their part to implement this Decision.

Article 7

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

This Decision shall apply as from 1 January 1999.

Done at Brussels, 25 March 1999.

*For the ACP-EC Customs Cooperation
Committee*

Michel VANDEN ABEELE

Philip MAINGI MWANZIA

The Joint Chairmen

ANNEX

MAURITIUS

Order No	HS heading	Description of goods	Period	Quantities
09.1673	5210 39	Woven fabrics of cotton, dyed, < 200 g/m ²	1.1.1999 to 31.12.1999	1 tonne
			1.1.2000 to 29.2.2000	1 tonne
09.1674	5211 39	Woven fabrics of cotton, dyed, > 200 g/m ²	1.1.1999 to 31.12.1999	5 tonnes
			1.1.2000 to 29.2.2000	1 tonne
09.1675	5212 13	Other woven fabrics of cotton, dyed, < 200 g/m ²	1.1.1999 to 31.12.1999	2 tonnes
			1.1.2000 to 29.2.2000	1 tonne
09.1676	5212 23	Other woven fabrics of cotton, dyed, > 200 g/m ²	1.1.1999 to 31.12.1999	1 tonne
			1.1.2000 to 29.2.2000	1 tonne
09.1677	5513 29	Woven fabrics of synthetic staple fibres, dyed, < 170 g/m ²	1.1.1999 to 31.12.1999	1 tonne
			1.1.2000 to 29.2.2000	1 tonne
09.1678	5514 29	Woven fabrics of synthetic staple fibres, dyed, > 170 g/m ²	1.1.1999 to 31.12.1999	1 tonne
			1.1.2000 to 29.2.2000	1 tonne
09.1679	6203 42	Trousers of cotton	1.1.1999 to 31.12.1999	45 000 pieces
			1.1.2000 to 29.2.2000	7 500 pieces
09.1680	6205 20	Men's or boy's shirts of cotton	1.1.1999 to 31.12.1999	1 528 000 pieces
			1.1.2000 to 29.2.2000	254 700 pieces

COMMISSION DECISION

of 30 April 1999

amending Decision 87/257/EEC on the list of establishments in the United States of America approved for the purpose of importing fresh meat into the Community and amending Council Decision 79/542/EEC drawing up a list of third countries from which the Member States authorise imports of bovine animals, swine, fresh meat and meat products

(notified under document number C(1999) 1165)

(Text with EEA relevance)

(1999/301/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries⁽¹⁾, as last amended by Directive 97/79/EC⁽²⁾, and in particular Article 3(1), Article 4(1) and Article 18(1) thereof,

Having regard to Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stock farming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC⁽³⁾, and in particular Article 11 thereof,

(1) Whereas a list of establishments in the United States of America, approved for the purpose of importing fresh meat into the Community, was drawn up initially by Commission Decision 87/257/EEC⁽⁴⁾, as last amended by Decision 1999/220/EC⁽⁵⁾; whereas that list may be amended at any time in the light of the results of Community inspections carried out in the United States of America;

(2) Whereas routine inspections made in application of Article 5 of Directive 72/462/EEC have revealed that the level of hygiene of certain establishments may be considered to be satisfactory; whereas these establishments may therefore be maintained or entered on the said list;

(3) Whereas the list of establishments must be amended accordingly;

(4) Whereas Member States can only import fresh meat including offal from third countries or parts of third countries appearing on a list established by the Council upon a proposal from the Commission;

(5) Whereas the list of these third countries or parts thereof is contained in Council Decision 79/542/EEC⁽⁶⁾, as last amended by Commission Decision 1999/236/EC⁽⁷⁾;

(6) Whereas the United States of America appears on this list as a third country from which the Member States are authorised to import fresh meat and meat products;

(7) Whereas Directive 96/22/EC prohibits the use of certain substances having a hormonal action for growth promotion;

(8) Whereas the import of fresh meat from third countries in which the use of certain substances having a hormonal action for growth promotion is not prohibited is subject to the presentation of guarantees at least equivalent to the rules laid down for Community production;

(9) Whereas several inspection missions carried out in the United States of America have revealed deficiencies in the implementation of the conditions agreed between the United States of America and the European Community for control of residues;

(10) Whereas sampling and analyses, for detection of residues of hormones in fresh bovine meat and liver imported from the United States of America intended for human consumption, have shown the presence of xenobiotic growth promoting hormones;

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 24, 30.1.1998, p. 31.

⁽³⁾ OJ L 125, 23.5.1996, p. 3.

⁽⁴⁾ OJ L 121, 9.5.1987, p. 55.

⁽⁵⁾ OJ L 80, 25.3.1999, p. 29.

⁽⁶⁾ OJ L 146, 14.6.1979, p. 15.

⁽⁷⁾ OJ L 87, 31.3.1999, p. 13.

- (11) Whereas the situation requires an immediate intensification of import checks for residues of growth-promoting hormones to be carried out on fresh bovine meat including offal imported from the United States of America; whereas the intensity and organisation of these checks have been set down in Decision 1999/302/EC (1);

(12) Whereas in circumstances like those described above, the relevant Community legislation and international agreements applicable in this case enable the European Community to suspend imports from the United States of America; whereas a limited period of time should be provided for the United States of America to take the necessary measures and action required to satisfy objectively that the level of sanitary protection applied in the European Community is respected;

(13) Whereas the United States of America should therefore be suspended from the list of third countries from which the Member States are authorised to import fresh bovine meat for human consumption with effect from 15 June 1999; whereas, suspension of imports, in the circumstances of the present case, is the only type of measure that is reasonably available to the European Community;

(14) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 87/257/EEC is hereby replaced by the Annex hereto.

Article 2

Part I of the Annex to Decision 79/542/EEC is amended as follows:

1. the line

'US | United States of America | × | × | × | × | × | × | × | × | × | × | # | # | # | XR(b)'

is replaced by:

'US | United States of America | s | x | x | x | x | x | x | x | x | x | # | # | # | XR(b)';

2. the following footnote is added after 'o = unauthorised';

's = suspended for export of product for human consumption'.

Article 3

The Member States shall alter the measures they apply in trade in order to bring them into line with Article 2 of this Decision and Decision 1999/302/EC. They shall immediately inform the Commission thereof.

Article 4

The provisions of Article 2 shall be reviewed following information on the evolution of the situation and guarantees supplied by the competent authorities of the United States of America.

Article 5

1. Article 1 shall apply from the date of notification of this Decision.
2. Article 2 shall apply from 15 June 1999.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 30 April 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ See page 58 of this Official Journal.

ANNEX

List of establishments in the United States of America approved for the purpose of importing fresh meat into the Community

Approval Number	Establishment/address	Category (*)							SR
		SL	CP	CS	B	S/G	P	SP	
3 W	Swift & Company, Worthington, MN	×	×				×		10(a), T
53	American Freezer Services, Norfolk, NE			×					1
I-113	US Cold Storage, Philadelphia, PA			×					1
I-149	C W Storage, Albany, NY			×					1
I-182	Garden State Cold Storage Inc., Mullica Hill, NJ			×					1, TF
I-183	Blue Grass Inspection Service, Philadelphia, PA			×					1
I-195	Rosenberger's Cold Storage Inc., Hatfield, PA			×					1
244 P	Transcontinental Cold Storage, Perry, IA			×					1, TF
244 W	IBP, Waterloo, IA	×	×				×		5, 16, TF
245 L	IBP, Lexington, NE	×	×		×				14
I-305	Georgia Ports Authority, Savannah, GA			×					1
320M	Premium Standard Foods, Milan, MO	×	×				×		T
I-335	Service Cold Storage, Miami, FL			×					1
382G	Smithfield Packing Co., Norfolk, VA			×					1
410	Green Bay Dressed Beef Inc., Green Bay, WI	×			×				10
E-713	Central Nebraska Packing Inc., North Platte, NE	×	×					×	15
889 A	J.F. O'Neill Packing Co., Omaha, NE	×	×		×				14
1620	Quality Pork Processors Inc., Austin, MN	×					×		7, 13
E-2018	Dallas Crow Inc., Kaufman, TX	×	×					×	15
2508	The Bruss Company, Chicago, IL		×		×		×		
3056	Termicol Inc., Wallula, WA			×					1
3131	Minnesota Freezer Warehouse Company, Worthington, MN			×					1, TF
3136	Cloverleaf Cold Storage of Fairmont, Fairmont, MN			×					1, TF
3149	Milliard Refrigerated Services, Des Moines, IA			×					1, TF
3157	Des Moines Cold Storage Co. Inc., Des Moines, IA			×					1, TF
3158	Freezer Services Inc., Amarillo, TX			×					1
3161	Monument Distribution Warehouse Inc., Indianapolis, IN			×					1

Approval Number	Establishment/address	Category (*)							SR
		SL	CP	CS	B	S/G	P	SP	
3170	Logansport Refrig Services, Logansport, IN			×					1
3190	American Freezer Services Inc., Fremont, NE			×					1
3198	Milliard Refrigerated Services, Denison, IA			×					1
3215	Napoleon Warehouse Inc., Napoleon, OH			×					1
3216	Freezer Services Inc. of Texas, Garden City, KS			×					1
3229	Iowa Beef Processors Inc., Emporia, KS			×					1
3241	AMC Warehouses, Grand Prairie, TX			×					1
3245	United Refrigerated Services, Marshall, MO			×					1
3261	Rosenberger's Cold Storage Inc., Hatfield, PA			×					1
3283	Industrial Cold Storage, 2625 West 5th St., Jacksonville, FL			×					1
3338	Millard Refrigerated Services, Iowa City, IA			×					1
3363	Millard Refrigerated Services, Friona, TX			×					1
3396	Americold, Bettendorf, IA			×					1
3397	Alford Refrigerated Warehouse, Richardson, TX			×					1
3398	Millard Refrigerated Services, Grand Island, NE			×					1
3407	Bell Cold Storage, St Paul, MN			×					1
3431	Texas Cold Storage, Fort Worth, TX			×					1
3447	Mohawk Cold Storage Division, Wauwatosa, WI			×					1
3475	Atlas Cold Storage, Green Bay, WI			×					1
3505	Dakota Cold Storage, Huron, SD			×					1
3535	Ashland Cold Storage Co., Chicago, IL			×					1
3552	Cloverleaf Cold Storage Co. (No 2), Sioux City, IA			×					1
3554	Cloverleaf Cold Storage Co., Sioux City, IA			×					1
3555	Cloverleaf Cold Storage Co. (No 5), Sioux City, IA			×					1, TF
3573	Albert Lea Freezer Warehouse Co., Albert Lea, MN			×					1, TF
3610	Millard Refrigerated Services, Dodge City, KS			×					1
3688	Newport St Paul Cold Storage, Newport, MN			×					1
3707	United States Cold Storage Inc., Omaha, NE			×					1
3738	Artesian Ice and Cold Storage Co., St Joseph, MO			×					1, TF

Approval Number	Establishment/address	Category (*)							SR
		SL	CP	CS	B	S/G	P	SP	
3748	Cloverleaf Cold Storage Co., Sioux City, IA			×					1
3854	Merchants Refrigerating Co., Vinita Park, MO			×					1
3860	Central Storage and Warehouse Inc., Eau Claire, WI			×					1
3871	York Cold Storage Co., York, NE			×					1
3910	United States Cold Storage, East Peoria, IL			×					1
3942	Wilkerson Cold Storage, Lubbock, TX			×					1
4104	Goldberg & Solovy Foods, 5925 Alcor, CA 90058		×		×				
4816	Frontier Game Company, Whiteface, TX	×	×		×				
E-7041	Beltex Corporation, Fort Worth, TX	×	×					×	15, 18
7271	Custom Meat Corp., Dallas, TX		×		×	×	×		
8904	Bell Cold Storage, St Paul, MN			×					1
8984	Provimi Veal Corp., Seymour, WI	×	×		×				3
9400	Taylor Packing Inc., Wyalusing, PA	×	×		×				9
13182	Millard Refrigerated Services, Omaha, NE			×					1, TF
13225	Quality Refrigerated Services, Omaha, NE			×					1
13331	Millard Processing Services, Omaha, NE (West)			×					1, TF
13531	Beef America Operating Co., York, NE		×		×	×	×		
E-15849	Cavel International, De Kalb, IL	×	×					×	15
17054	RCS/Smithfield Inc., Smithfield, VA			×					1
17068	US Coldstorage, Cumberton, NC			×					1
17354	CSW Central Storage & Warehouse Co. Inc., Madison, WI			×					1
17461	Millard Refrigerated Services, Greeley, CO			×					1
17624	Wiscold Inc. Rochelle, Rochelle, IL			×					1, TF
17756	Millard Refrigerated Services, Sioux City, IA			×					1, TF
17993	Richmond Cold Storage, 5501 Corrugated Road, Sandston, VA			×					1, TF
18163	Quality Refrigerated Services, Spencer, IA			×					1, TF
18265	Alford Refrigerated Warehouses, Houston, TX			×					1
18294	Marshall Cold Store, Marshalltown, IA			×					TF, 1

Approval Number	Establishment/address	Category (*)							SR
		SL	CP	CS	B	S/G	P	SP	
18435	Carolina Cold Storage, Tar Heel, NC			×					TF, 1
18674	Millard Refrigerated Services, Edwardsville, KS			×					1, TF
18793	Cloverleaf Cold Storage, Austin, MN			×					TF, 1
18859	North American Bison Cooperative, New Rockford, ND	×	×		×				
18930	Jacintoport Corp., 16203 Peninsula Blvd, Houston, TX			×					1
18986	Alford Refrigerated Warehouse, Laporte, TX			×					1, TF
19086	Gress Refrigerated Services, Scranton, PA			×					1
19087	Inter Cities Cold Storage, Inc., Pittston, PA			×					1
19246	Cloverleaf Cold Storage, Sioux City, IO			×					1, TF
19288	United States Cold Storage, PO Box 242, Milford, DE			×					1
19470	Nordic Warehouse Inc., 403 Commerce Ct., Goldsboro, NC			×					1, TF
19593	Ball Packing Inc., Idaho Falls, ID			×					1
19690	T&T Freezers, 2192 NV Blvd, Vineland, NJ			×					1
19797	Burris Refrigerated Svcs, Gilbert Rd, Benson, NC			×					1, TF
19870	United States Cold Storage, PO Box 627, Warsaw, NC			×					1
20012	Lakeway International Food Group LLC, Omaha, NE		×		×				
20190	Interstate Warehousing, Newport News, VA			×					1
20374	Quality Refrigerated Services, Omaha, NE			×					1

(*)

SL: Slaughterhouse
 CP: Cutting premises
 CS: Coldstore

B: Bovine meat
 S/G: Sheepmeat/Goatmeat
 P: Pigmeat

SP: Meat from solipeds
 SR: Special remarks

- 1 = Only storage of meat already finally packaged in approved slaughtering or cutting establishments.
 2 = Offal only.
 3 = Also for sliced bovine livers.
 4 = Only sliced bovine livers.
 5 = Tongues, hearts and carcase meat only.
 6 = Tongues, hearts and kidneys only.
 7 = Tongues, hearts, kidneys and livers only.
 8 = Tongues, hearts, kidneys, livers and brains only.
 9 = Tongues, hearts, stomachs and carcase meat only.
 10 = Tongues, hearts, kidneys, livers and stomachs only.
 10(a) = Tongues, hearts, kidneys, livers, stomachs and carcase meat only.
 11 = Carcase meat, tongues, hearts, kidneys, livers and brains only.
 12 = Hearts and stomachs only.
 13 = Only packaged offal which has undergone the freezing treatment provided for in Article 3 of Directive 77/96/EEC.
 14 = Offal excluded.
 15 = Livers and kidneys excluded.
 16 = Only carcase meat and packaged offal which has undergone the freezing treatment provided for in Article 3 of Directive 77/96/EEC.
 17 = Tongues, hearts, kidneys, livers, brains and tails.
 18 = Bison included.
 TF = The establishments with the indication 'TF' are authorised, within the meaning of Article 4 of Directive 77/96/EEC, to perform the freezing treatment provided for in Article 3 of the same Directive.
 T = This establishment is authorised, within the meaning of Article 4 of Directive 77/96/EEC, to perform the examination for detection of trichinae provided for in Article 2 of the abovementioned Directive.

COMMISSION DECISION

of 30 April 1999

amending Decision 94/360/EC on the reduced frequency of physical checks of consignments of certain products to be imported from third countries, pursuant to Council Directive 90/675/EEC

(notified under document number C(1999) 1166)

(Text with EEA relevance)

(1999/302/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽¹⁾, as last amended by Directive 97/79/EC⁽²⁾ and in particular Article 8(3) thereof,

The following Article is inserted following Article 1 of Decision 94/360/EC:

Article 1a

- (1) Whereas Commission Decision 1999/301/EC⁽³⁾ provides for a suspension of imports of fresh bovine meat including offal for human consumption coming from or originating in the United States of America with effect from 15 June 1999; whereas it is necessary in the interval that fresh bovine meat including offal imported from the United States of America does not contain any residues of growth promoting hormones;
- (2) Whereas in application of Article 8 of Directive 90/675/EEC the reduction in the frequency of physical checks for certain products from third countries are laid down in the Annex to Commission Decision 94/360/EC⁽⁴⁾; whereas the presence of certain xenobiotic growth promoting hormones, and abnormally high levels of residues of natural hormones, has been detected in fresh bovine meat including offal, other than bison meat including offal, from the United States of America and it is therefore necessary to intensify harmonised checks on such meat;
- (3) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

1. Notwithstanding the provisions of Article 1, the level and organisation of physical checks to be carried out by each Member State, on entry into its territory at any border inspection or crossing point, on consignments of fresh bovine meat including offal, other than bison meat including offal, coming from or originating in the United States of America shall be as follows:

- the frequency of the physical checks is increased to 100 %,
- two official samples shall be taken from each consignment and examined for residues of each of the xenobiotic hormones melengestrol acetate, trenbolone and zeranol, and for abnormally high levels of residues of the natural hormones 17 beta oestradiol, progesterone and testosterone,
- the samples shall be handled in accordance with points 2.6, 2.7 and 2.9 of the Annex to Commission Decision 98/179/EC⁽⁵⁾,
- the samples shall be sent to, and the laboratory tests shall be performed at, one of the laboratories referred to in the Annex to this Decision.

2. Member States shall only allow the entry into their territory and the consignment to another Member State of such fresh bovine meat, including offal, in question where the results of the examination and analyses, referred to in paragraph 1, are favourable.

⁽¹⁾ OJ L 373, 31.12.1990, p. 1.

⁽²⁾ OJ L 24, 30.1.1998, p. 31.

⁽³⁾ See page 52 of this Official Journal.

⁽⁴⁾ OJ L 158, 25.6.1994, p. 41.

⁽⁵⁾ OJ L 65, 5.3.1998, p. 31.

3. All costs incurred in applying this Article shall be chargeable to the consignor, the consignee or their agents.'

Article 3

This Decision is addressed to the Member States.

Article 2

Done at Brussels, 30 April 1999.

The provisions of Article 1 shall be reviewed following information on the evolution of the situation and the guarantees supplied by the competent authorities of the United States of America.

For the Commission

Karel VAN MIERT

Member of the Commission

*ANNEX***LIST OF LABORATORIES**

1. Rijksinstituut voor Volksgezondheid en Milieu
EU Community Reference Laboratory
(Antonie van Leeuwenhoeklaan 9)
PO Box 1, 3720 BA Bilthoven
The Netherlands

CRL Director and contact point: Dr Rainer W. Stephany
Tel. (31) 302 74 26 13
Fax (31) 302 74 44 03
E-mail crl.aro@rivm.nl or rainer.stephany@rivm.nl
 2. Laboratoire des dosages hormonaux
Laboratoire national de référence
École nationale vétérinaire de Nantes
BP 50707
44307 Nantes CEDEX 3
(France)

NRL Director and contact point: Dr François André
Tel. (33) 240 68 77 66
Fax (33) 240 68 78 78
E-mail andre@vet-nantes.fr
 3. Any other Member State laboratory which applies screening analyses performed by isotope dilution on line gas chromatography and/or liquid chromatography mass spectrometry under Quality Assurance according to the Norm EN45001, and confirmatory analyses performed by mass spectrometry under Quality Assurance according to the Norm EN45001.
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