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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1727/98
of 4 August 1998
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,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 August 1998.

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 4 August 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0709 90 70	052	39,2
	999	39,2
0805 30 10	382	60,3
	388	65,0
	524	63,6
	528	60,3
	999	62,3
0806 10 10	052	111,1
	412	146,5
	600	69,9
	624	166,3
	999	123,5
0808 10 20, 0808 10 50, 0808 10 90	388	61,7
	400	72,9
	508	102,6
	512	60,4
	524	50,8
	528	73,4
	800	173,0
	804	97,7
	999	86,6
	0808 20 50	052
388		83,6
512		56,6
528		91,0
0809 20 95	999	80,9
	052	506,6
	400	284,6
	404	365,4
0809 40 05	616	361,1
	999	379,4
	064	68,7
	066	58,6
	624	165,1
	999	97,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1728/98

of 4 August 1998

fixing the definitive aid for lemons for the 1997/98 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽¹⁾, and in particular Article 6 thereof,

Whereas Article 5(1) of Regulation (EC) No 2202/96 establishes a processing threshold of 444 000 tonnes for lemons; whereas Article 5(2) of that Regulation provides that, for each marketing year, overrunning of the processing thresholds is to be assessed on the basis of the average quantity processed with benefit of the aid during the last three marketing years, including the current marketing year; whereas Article 5(3) of that Regulation provides that where an overrun has been established, the aid fixed for the current marketing year in the Annex to that Regulation is to be reduced by 1 % per 4 440 tonnes of the overrun;

Whereas, pursuant to Article 22(1)(b) of Council Regulation (EC) No 1169/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits ⁽²⁾, as amended by Regulation (EC) No 1145/98 ⁽³⁾, the Member States have notified the Commission of the quantities of lemons delivered for processing in respect of the 1997/98 marketing year under Regulation (EC) No 2202/96;

whereas, on the basis of those figures and of the quantities processed with benefit of the aid in the 1995/96 and 1996/97 marketing years, an overrun in the processing threshold has been established for 160 991 tonnes; whereas the aid for lemons fixed in the Annex to Regulation (EC) No 2202/96 for the 1997/98 marketing year should accordingly be reduced by 36 %;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1997/98 marketing year, the aid for lemons fixed in the tables in the Annex to Regulation (EC) No 2202/96 shall be reduced by 36 %.

When the aid is paid, account shall be taken of advances paid in accordance with Article 15 of Regulation (EC) No 1169/97.

Article 2

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

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 49.

⁽²⁾ OJ L 169, 27. 6. 1997, p. 15.

⁽³⁾ OJ L 159, 3. 6. 1998, p. 29.

COMMISSION REGULATION (EC) No 1729/98
of 4 August 1998

fixing the advance on the aid for lemons for the 1998/99 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽¹⁾, and in particular Article 6 thereof,

Whereas Article 14(1) of Commission Regulation (EC) No 1169/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits ⁽²⁾, as amended by Regulation (EC) No 1145/98 ⁽³⁾, provides that producer organisations may submit applications, by product and delivery period, for advances on the aid in respect of oranges, mandarins, clementines, satsumas and lemons delivered for processing under contracts; whereas Article 14(2) of Regulation (EC) No 1169/97 provides that advances are to be equal to 70 % of the amounts set out in the Annex to Regulation (EC) No 2202/96; whereas Article 14(5) of Regulation (EC) No 1169/97 provides that where there is a risk that the processing thresholds fixed in Article 5 of Regulation (EC) No 2202/96 may be exceeded, the Commission may reduce that figure of 70 %;

Whereas, pursuant to Article 22(1) of Regulation (EC) No 1169/97, the Member States have notified the Commission of the quantities of lemons covered by contracts for

the 1998/99 marketing year, broken down by delivery period; whereas, in view of those figures and of the quantities processed with benefit of the aid in the 1996/97 and 1997/98 marketing years, there is a risk that the processing threshold for that product may be exceeded; whereas the advance on the aid for the 1998/99 marketing year should accordingly be reduced;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/99 marketing year, the advance provided for in Article 14(2) of Regulation (EC) No 1169/97 shall amount to 31 % of the aid for lemons fixed in the Annex to Regulation (EC) No 2202/96.

Article 2

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

It shall apply from the 1998/99 marketing year.

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 49.

⁽²⁾ OJ L 169, 27. 6. 1997, p. 15.

⁽³⁾ OJ L 159, 3. 6. 1998, p. 29.

COMMISSION REGULATION (EC) No 1730/98**of 4 August 1998****on the sale at a price fixed in advance of unprocessed dried figs from the 1997 harvest, held by the Greek storage agency, to distilleries and the animal feed industry**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the market in processed fruit and vegetable products⁽¹⁾, as amended by Regulation (EC) No 2199/97⁽²⁾ and in particular Article 9(8) thereof,

Whereas the second subparagraph of Article 9(3) of Regulation (EC) No 2201/96 states that where products cannot be disposed of on normal terms, special measures may be taken; whereas approximately 111 tonnes of unprocessed dried figs held by the Greek storage agency cannot be sold on normal terms as they are no longer fit for human consumption; whereas they must be sold for specific uses within the meaning of Article 6(2) of Commission Regulation (EEC) No 626/85 of 12 March 1985 on the purchasing, selling and storage of unprocessed dried grapes and figs by storage agencies⁽³⁾, as last amended by Regulation (EC) No 1437/97⁽⁴⁾;

Whereas there are currently outlets for unprocessed dried figs unfit for human consumption in the distillation and animal feed sectors; whereas the products held by the storage agencies should be sold for these two uses; whereas in view of the small amount for sale and the special characteristics of the markets for which it is intended, sale at prices fixed in advance is most appropriate;

Whereas the appropriate selling price is the same for both intended uses, given that the terms of access to the two markets are similar; whereas the special security referred to in the second subparagraph of Article 9(3) of Regulation (EC) No 2201/96 should be fixed on the basis of the difference between the normal market price for dried figs and the selling price fixed by this Regulation;

Whereas Commission Regulation (EEC) No 1707/85 of 21 June 1985 on the sale of unprocessed dried figs by storage agencies for the manufacture of alcohol⁽⁵⁾ lays down the detailed rules for the sale of unprocessed dried figs to distilleries; whereas, in the case of dried figs intended for animal feed, to facilitate checks that they

were used for the intended purpose, it is necessary to stipulate the end product to be made and the deadline for its manufacture and to require a commitment on the part of the manufacturer to use the products in question in the manufacture of animal feed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Greek storage agency shall undertake the sale of the unprocessed dried figs it holds from the 1997 harvest to distilleries and the animal feed industry, in accordance with Title III of Regulation (EEC) No 626/85 and this Regulation, at a price fixed at ECU 4 per 100 kilograms net.

2. The special security referred to in the second subparagraph of Article 9(3) of Regulation (EC) No 2201/96 is set at ECU 15 per 100 kilograms net.

Article 2

1. Purchase applications shall be submitted to the Greek storage agency Sykiki, at the head office of Idagep, Acharnon Street 241, Athens, Greece, for products held by that agency.

2. Information on the quantities and places where the products are stored may be obtained from the Greek storage agency Sykiki, Kritis Street 13, Kalamata, Greece.

Article 3

Regulation (EEC) No 1707/85 shall apply to the sale of unprocessed dried figs to distilleries.

Article 4

1. Unprocessed dried figs sold to the animal feed industry shall be used for the manufacture of products falling within CN code 2309.

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 29.

⁽²⁾ OJ L 303, 6. 11. 1997, p. 1.

⁽³⁾ OJ L 72, 13. 3. 1985, p. 7.

⁽⁴⁾ OJ L 196, 24. 7. 1997, p. 62.

⁽⁵⁾ OJ L 163, 22. 6. 1985, p. 38.

2. Manufacture must be completed at the latest 90 days after the date the purchase application referred to in Article 8(2) of Regulation (EEC) No 626/85 is accepted.

3. The purchase application shall contain, in addition to the information referred to in Article 7(2) of Regulation (EEC) No 626/85, a declaration by the applicant undertaking to use the dried figs for the manufacture of the products referred to in paragraph 1.

Article 5

The Member States shall carry out physical and documentary checks to ensure that the products sold pursuant to this Regulation are used for the purposes intended.

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

Done at Brussels, 4 August 1998.

Article 6

The Member States shall take the necessary measures to ensure equal access by the industries concerned to the amounts placed on sale.

Article 7

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

For the Commission
Monika WULF-MATHIES
Member of the Commission

COMMISSION REGULATION (EC) No 1731/98
of 4 August 1998

**fixing for the 1998/99 marketing year the production aid for tinned pineapple
and the minimum price to be paid to pineapple producers**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 525/77 of 14 March 1977 establishing a system of production aid for tinned pineapple ⁽¹⁾, as last amended by Regulation (EEC) No 1699/85 ⁽²⁾, and in particular Article 8 thereof,

Whereas, pursuant to Article 4 of Regulation (EEC) No 525/77, the minimum price to be paid to producers is to be determined on the basis of the minimum price applicable during the preceding marketing year, and the trend of production costs in the fruit and vegetable sector;

Whereas Article 5 of the said Regulation lays down the criteria for fixing the amount of production aid; whereas account must, in particular, be taken of the aid fixed for the previous marketing year adjusted to take account of changes in the minimum price to be paid to producers, the non-member country price and, if necessary, the pattern of processing costs assessed on a flat-rate basis;

Whereas the Management Committee for Products Processed from Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/99 marketing year:

- (a) the minimum price referred to in Article 4 of Regulation (EEC) No 525/77 to be paid to producers for pineapples; and
- (b) the production aid referred to in Article 5 of the said Regulation for tinned pineapple,

shall be as set out in the Annex.

Article 2

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

It shall apply from 1 June 1998.

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 73, 21. 3. 1977, p. 46.

⁽²⁾ OJ L 163, 22. 6. 1985, p. 12.

*ANNEX***Minimum price to be paid to the producers**

Product	ECU/100 kilograms net, ex producer
Pineapple intended for the manufacture of tinned pineapple	37,648

Production aid

Product	ECU/100 kilograms net
Tinned pineapple	144,114

COMMISSION REGULATION (EC) No 1732/98
of 4 August 1998

amending Regulation (EC) No 1579/98 increasing to 200 000 tonnes the quantity of rye held by the Danish intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 2193/96⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;

Whereas Commission Regulation (EC) No 1579/98⁽⁵⁾, opened a standing invitation to tender for the export of 100 000 tonnes of rye held by the Danish intervention agency; whereas, Denmark informed the Commission of the intention of its intervention agency to increase by 100 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of rye held by the Danish intervention agency for which a standing invitation to tender for export has been opened should be increased to 200 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EC) No 1579/98 must therefore be amended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1579/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 200 000 tonnes of rye to be exported to all third countries.

2. The regions in which the 200 000 tonnes of rye are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 4 August 1998.

For the Commission

Monika WULF-MATHIES

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ L 293, 16. 11. 1996, p. 1.

⁽⁵⁾ OJ L 206, 23. 7. 1998, p. 21.

*ANNEX**ANNEX I*

(tonnes)

Place of storage	Quantity
Sjælland	25 600
Jylland	162 507
Fyn	11 893'

COMMISSION REGULATION (EC) No 1733/98
of 4 August 1998

**fixing for the 1998/99 marketing year the minimum price to be paid to producers
for peaches and the amount of production aid for peaches in syrup and/or
natural fruit juice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as amended by Regulation (EC) No 2199/97 ⁽²⁾, and in particular Articles 3(3) and 4(9) thereof,

Whereas Article 2 of Commission Regulation (EC) No 504/97 of 19 March 1997 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the system of production aid for products processed from fruit and vegetables ⁽³⁾, as last as amended by Regulation (EC) No 1590/98 ⁽⁴⁾, fixes the dates of the marketing years;

Whereas Articles 3 and 4 of Regulation (EC) No 2201/96 set the criteria for fixing the minimum price and the amount of the production aid respectively; whereas Article 5 of that Regulation introduces a guarantee threshold beyond which the aid is reduced; whereas, therefore, the minimum price and the production aid for the 1998/99 marketing year should be fixed;

Whereas the Management Committee for Products Processed from Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/99 marketing year:

- (a) the minimum price referred to in Article 3 of Regulation (EC) No 2201/96 shall be ECU 30,768 per 100 kg net from the producer for peaches intended for the production of peaches in syrup and/or natural fruit juice,
- (b) the production aid referred to in Article 4 of that Regulation shall be ECU 6,065 per 100 kilograms net for peaches in syrup and/or natural fruit juice.

Article 2

Where processing takes place outside the Member State in which the produce was grown, such Member State shall furnish proof to the Member State paying the production aid that the minimum price payable to the producer has been paid.

Article 3

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

It shall apply with effect from 15 June 1998.

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 29.

⁽²⁾ OJ L 303, 6. 11. 1997, p. 1.

⁽³⁾ OJ L 78, 20. 3. 1997, p. 14.

⁽⁴⁾ OJ L 208, 24. 7. 1998, p. 11.

COMMISSION REGULATION (EC) No 1734/98
of 4 August 1998

fixing for the 1998/99 marketing year the minimum price to be paid to producers for Williams and Rocha pears and the amount of production aid for Williams and Rocha pears in syrup and/or natural fruit juice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as amended by Regulation (EC) No 2199/97 ⁽²⁾ and in particular Articles 3(3) and 4(9) thereof,

Whereas Article 2 of Commission Regulation (EC) No 504/97 of 19 March 1997 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the system of production aid for products processed from fruit and vegetables ⁽³⁾, as last amended by Regulation (EC) No 1590/98 ⁽⁴⁾, fixes the dates of the marketing years;

Whereas Articles 3 and 4 of Regulation (EC) No 2201/96 set the criteria for fixing the minimum price and the amount of the production aid respectively; whereas Article 5 of that Regulation introduces a guarantee threshold beyond which the aid is reduced; whereas, therefore, the minimum price and the production aid for the 1998/99 marketing year should be fixed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/99 marketing year:

- (a) the minimum price referred to in Article 3 of Regulation (EC) No 2201/96 shall be ECU 39,259 per 100 kg net from the producer for Williams and Rocha pears intended for the production of pears in syrup and/or natural fruit juice,
- (b) the production aid referred to in Article 4 of that Regulation shall be ECU 12,517 per 100 kilograms net for Williams and Rocha pears in syrup and/or natural fruit juice.

Article 2

Where processing takes place outside the Member State in which the produce was grown, such Member State shall furnish proof to the Member State paying the production aid that the minimum price payable to the producer has been paid.

Article 3

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

It shall apply from 15 July 1998.

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

Done at Brussels, 4 August 1998.

For the Commission
Monika WULF-MATHIES
Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 29.

⁽²⁾ OJ L 303, 6. 11. 1997, p. 1.

⁽³⁾ OJ L 78, 20. 3. 1997, p. 14.

⁽⁴⁾ OJ L 208, 24. 7. 1998, p. 11.

COMMISSION REGULATION (EC) No 1735/98
of 4 August 1998
opening a standing invitation to tender for the export of barley held by the
Luxembourg intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 2193/96⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas a standing invitation to tender should be opened for the export of 3 981 tonnes of barley held by the Luxembourg intervention agency;

Whereas special procedures must be laid down to ensure that the operations and their monitoring are properly effected; whereas, to that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators; whereas derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93;

Whereas, where removal of the barley is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ L 293, 16. 11. 1996, p. 1.

Article 2

1. The invitation to tender shall cover a maximum of 3 981 tonnes of barley for export to third countries.

2. The regions in which the 3 981 tonnes of barley are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.

2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.

3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted pursuant to Article 44 of Commission Regulation (EEC) No 3719/88⁽⁵⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 6 August 1998.

2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.

3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 27 May 1999.

4. Tenders shall be lodged with the Luxembourg intervention agency.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of

⁽⁵⁾ OJ L 331, 2. 12. 1988, p. 1.

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

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

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

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:
 - two kilograms per hectolitre as regards specific weight, which must not, however, be less than 60 kg/hl,
 - one percentage point as regards moisture content,
 - half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92 ⁽¹⁾, and
 - half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:
 - accept the lot as established, or
 - refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention barley

of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;

- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with another lot of intervention barley of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

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

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

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

Article 7

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

⁽¹⁾ OJ L 74, 20. 3. 1992, p. 18.

⁽²⁾ OJ L 301, 17. 10. 1992, p. 17.

- Cebada de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 1735/98
- Byg fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1735/98
- Interventionsgerste ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1735/98
- Κριθή παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1735/98
- Intervention barley without application of refund or tax, Regulation (EC) No 1735/98
- Orge d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 1735/98
- Orzo d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 1735/98
- Gerst uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1735/98
- Cevada de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n° 1735/98
- Interventio-ohraa, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 1735/98
- Interventionskorn, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1735/98.

Article 8

1. The security lodgement pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.
2. The obligation to export to the third countries shall be covered by a security amounting to ECU 50 per tonne of which ECU 30 per tonne shall be lodged when the

export licence is issued, with the balance of ECU 20 per tonne being lodged before removal of the cereals.

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

- the amount of ECU 30 per tonne must be released within 20 working days of the date on which the successful tenderer supplies proof that the barley removed has left the customs territory of the Community,
- the amount of ECU 20 per tonne must be released within 15 working days of the date on which the successful tenderer supplies the proof referred to in Article 17(3) of Regulation (EEC) No 2131/93.

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

This compensation shall not be charged to the European Agricultural Guidance and Guarantee Fund (EAGGF).

Article 9

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

Article 10

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

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

Done at Brussels, 4 August 1998.

For the Commission

Monika WULF-MATHIES

Member of the Commission

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Luxembourg	3 981

ANNEX II

**Communication of refusal of lots under the standing invitation to tender for the export of
barley held by the Luxembourg intervention agency**

(Article 6(1) of Regulation (EC) No 1735/98)

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

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			<ul style="list-style-type: none"> — Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

ANNEX III

Standing invitation to tender for the export of barley held by the Luxembourg intervention agency

(Regulation (EC) No 1735/98)

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

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

ANNEX IV

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

— fax: 296 49 56,
295 25 15,

— telex: 22037 AGREC B,
22070 AGREC B (Greek characters).

DIRECTIVE 98/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 July 1998

amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 100a and 213 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 laid down in Article 189b of the Treaty ⁽³⁾,

- (1) Whereas, in order to promote the smooth functioning of the internal market, as much transparency as possible should be ensured as regards the future national rules and regulations applying to Information Society services, by amending Directive 98/34/EC ⁽⁴⁾;
- (2) Whereas a wide variety of services within the meaning of Articles 59 and 60 of the Treaty will benefit by the opportunities afforded by the Information Society of being provided at a distance, electronically and at the individual request of a recipient of services;
- (3) Whereas the area without internal frontiers comprising the internal market enables providers of such services to develop their cross-border activities with a view to increasing their competitiveness, and thus affords citizens new opportunities to transmit and receive information regardless of frontiers, and consumers new forms of access to goods and services;
- (4) Whereas the extension of the scope of Directive 98/34/EC should not prevent Member States from taking account of the different social, societal and cultural implications inherent in the advent of the Information Society; whereas, in particular, the use of the procedural rules laid down in that Directive for

Information Society services should not affect cultural policy measures, particularly in the audio-visual field, which Member States might adopt in accordance with Community law, taking account of their linguistic diversity, their specific national and regional characteristics and their cultural heritage; whereas the development of the Information Society should ensure, in any event, proper access of European citizens to the European cultural heritage supplied in a digital environment;

- (5) Whereas Directive 98/34/EC is not intended to apply to national rules relating to fundamental rights, such as constitutional provisions concerning freedom of expression and, more particularly, freedom of the press; whereas it is not intended to apply to the general criminal law either; whereas, furthermore, it does not apply to agreements governed by private law between credit institutions, in particular, to agreements on the execution of payments between credit institutions;
- (6) Whereas the European Council has stressed the need to create a clear and stable legal framework at Community level in order to foster the development of the Information Society; whereas Community law and the rules governing the internal market in particular, including both the principles enshrined in the Treaty and secondary legislation, already constitute a basic legal framework for the development of such services;
- (7) Whereas it should be possible to adapt the existing national rules and regulations applicable to services available at the present so as to take account of new Information Society services, either with a view to ensuring that the general interest is better protected or, on the other hand, with a view to simplifying such rules and regulations where their application is disproportionate to the objectives they pursue;
- (8) Whereas, without coordination at Community level, this foreseeable regulatory activity at national level might give rise to restrictions on the free movement of services and the freedom of establishment, leading in turn to a refragmentation of the internal market, over-regulation and regulatory inconsistencies;
- (9) Whereas, in order to ensure real and effective protection of the general-interest objectives involved in the development of the Information Society, there is a

⁽¹⁾ OJ C 307, 16. 10. 1996, p. 11, and OJ C 65, 28. 2. 1998, p. 12.

⁽²⁾ OJ C 158, 26. 5. 1997, p. 1.

⁽³⁾ Opinion of the European Parliament of 16 May 1997 (OJ C 167, 2. 6. 1997, p. 238), Council Common Position of 26 January 1998 (OJ C 62, 26. 2. 1998, p. 48) and Decision of the European Parliament of 14 May 1998 (OJ C 167, 1. 6. 1998). Council Decision of 29 June 1998.

⁽⁴⁾ OJ L 204, 21. 7. 1998, p. 37.

need for a coordinated approach at Community level when questions relating to activities with such highly transnational connotations as those of the new services are dealt with;

- (10) Whereas, in the case of telecommunications services, there is already harmonisation at Community level or, in some cases, arrangements for mutual recognition, and whereas the existing Community legislation provides for adaptations to take account of technological developments and the supply of new services and, as a result, the majority of national regulations concerning telecommunications services will not be subject to notification under this Directive since they will come under the exemptions set out in Article 10(1) or Article 1 point 5 of Directive 98/34/EC; whereas, nevertheless, certain national provisions specifically aimed at matters which are not subject to Community legislation may affect the free movement of Information Society services and to that extent they must be notified;
- (11) Whereas, for the other still little known fields of the Information Society, it would, however, be premature to coordinate national rules and regulations by means of extensive or exhaustive harmonisation at Community level of the substantive law, given that enough is not yet known about the form the new services will take or their nature, that there is as yet at national level no specific regulatory activity in this field, and that the need for, and content of, such harmonisation in the light of the internal market cannot be defined at this stage;
- (12) Whereas it is therefore necessary to preserve the smooth functioning of the internal market and to avert the risks of refragmentation by providing for a procedure for the provision of information, the holding of consultations, and administrative cooperation in respect of new draft rules and regulations; whereas such a procedure will help, *inter alia*, to ensure that the Treaty, in particular Articles 52 and 59 thereof, is effectively applied and, where necessary, to detect any need to protect the general interest at Community level; whereas, moreover, the improved application of the Treaty made possible by such an information procedure will have the effect of reducing the need for Community rules to what is strictly necessary and proportional in the light of the internal market and the protection of general-interest objectives; whereas, lastly, such a procedure will enable businesses to exploit the advantages of the internal market more effectively;
- (13) Whereas Directive 98/34/EC pursues the same objectives and whereas this procedure is effective, being the most comprehensive one for attaining these objectives; whereas the experience that has been gained in implementing that Directive and the procedures provided for therein can be applied to draft rules on Information Society services; whereas the procedure it lays down is now well established among national authorities;
- (14) Whereas, moreover, in accordance with Article 7a of the Treaty, the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured and whereas Directive 98/34/EC provides only for an administrative cooperation procedure and not for any harmonisation of substantive rules;
- (15) Whereas, therefore, amendment of Directive 98/34/EC with a view to applying it to draft rules and regulations on Information Society services is the approach best suited, with regard to the legal framework of the said services, to meeting effectively the need for transparency in the internal market;
- (16) Whereas notification should be provided for notably in the case of rules which are likely to evolve in future; whereas services which are provided at a distance, electronically, and at the individual request of a recipient of services (Information Society services) are likely, in view of their diversity and their future growth, to necessitate and generate the largest number of new rules and regulations; whereas provision must accordingly be made for the notification of draft rules and regulations relating to such services;
- (17) Whereas specific rules on the taking-up and pursuit of service activities which are capable of being carried on in the manner described above should thus be communicated even where they are included in rules and regulations with a more general purpose; whereas, however, general regulations which do not contain any provision specifically aimed at such services need not be notified;
- (18) Whereas 'rules on the taking-up and pursuit of service activities' means rules laying down requirements concerning Information Society services, such as those relating to service providers, services and recipients of services and to economic activities capable of being provided electronically, at a distance and at the individual request of the recipient of the services; whereas, for example, rules on the establishment of service providers, in particular those on authorisation or licensing arrangements, are accordingly covered; whereas a provision specifically aimed at Information Society services must be con-

sidered as being such a rule even if part of a more general regulation; whereas, on the other hand, measures of direct and individual concern to certain specific recipients (such as, for example, telecommunications licences) would not be covered;

- (19) Whereas, under Article 60 of the Treaty as interpreted by the case-law of the Court of Justice, 'services' means those normally provided for remuneration; whereas that characteristic is absent in the case of activities which a State carries out without economic consideration in the context of its duties in particular in the social, cultural, educational and judicial fields; whereas national provisions concerning such activities are not covered by the definition given in Article 60 of the Treaty and therefore do not fall within the scope of this Directive;
- (20) Whereas this Directive is without prejudice to the scope of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁾, as amended by Directive 97/36/EC of the European Parliament and of the Council⁽²⁾, or any future amendments;
- (21) Whereas, in any event, this Directive does not cover draft national provisions aimed at transposing the content of Community directives in force or awaiting adoption inasmuch as they are already subject to specific examination; whereas it accordingly covers neither national rules and regulations transposing Directive 89/552/EEC, as amended by Directive 97/36/EC, or any future amendments, nor national rules and regulations transposing, or adopted subsequently within the context of, Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences for telecommunications services⁽³⁾;
- (22) Whereas, moreover, provision should be made for exceptional cases in which national rules and regulations concerning Information Society services might be adopted immediately and whereas it is also important to allow this possibility solely for urgent reasons linked to serious and unforeseeable circumstances, such as circumstances of which there was no previous knowledge and the origin of which is not attributable to any action on the part of the authorities of the Member State concerned, so as not to jeopardize the objective of prior consultation and administrative cooperation inherent in this Directive;
- (23) Whereas it is appropriate for a Member State to postpone for twelve months — or possibly eighteen months in the case of a common position of the Council — the adoption of a draft rule on services only where the draft rule relates to a matter which falls within the scope of a proposal for a directive, regulation or decision which the Commission has already submitted to the Council; whereas this stand-still obligation may be imposed by the Commission on the relevant Member State only if the draft national rule contains provisions which are not substantively consistent with the proposal submitted by the Commission;
- (24) Whereas definition of the framework for the provision of information and the holding of consultations at Community level as established by this Directive is a precondition for consistent and effective participation by the Community in work involving matters relating to the regulatory aspects of Information Society services in the international context;
- (25) Whereas it is appropriate that, in the context of the functioning of Directive 98/34/EC, the Committee provided for in Article 5 thereof should meet specifically to examine questions relating to Information Society services;
- (26) Whereas, by the same token, it should be noted that whenever a national measure is required also to be notified at the draft stage under another Community act, the Member State concerned may make a single communication under that other act, by indicating that that communication constitutes a communication also for the purpose of this Directive;
- (27) Whereas the Commission will at regular intervals investigate developments in the market for new services in the field of the Information Society, especially in the framework of the convergence between telecommunications, information technology and media and, where necessary, take initiatives in order to adapt rules promptly in order to encourage the European development of new services,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 98/34/EC is amended as follows:

1. the title shall be replaced by the following:

'Directive of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services';

⁽¹⁾ OJ L 298, 17. 10. 1989, p. 23.

⁽²⁾ OJ L 202, 30. 7. 1997, p. 1.

⁽³⁾ OJ L 117, 7. 5. 1997, p. 15.

2. Article 1 is amended as follows:

(a) the following new point shall be inserted:

- ‘2. “service”, any Information Society service, that is to say, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- “at a distance” means that the service is provided without the parties being simultaneously present,
- “by electronic means” means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- “at the individual request of a recipient of services” means that the service is provided through the transmission of data on individual request.

An indicative list of services not covered by this definition is set out in Annex V.

This Directive shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC (*).

(*) OJ L 298, 17.10.1989, p. 23. Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 1);

(b) points 2 and 3 shall become points 3 and 4 respectively;

(c) the following new point shall be inserted:

- ‘5. “rule on services”, requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point 2, in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined in that point.

This Directive shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC (*).

This Directive shall not apply to rules relating to matters which are covered by Community

legislation in the field of financial services, as listed non-exhaustively in Annex VI to this Directive.

With the exception of Article 8(3), this Directive shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at Information Society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
- a rule shall not be considered to be specifically aimed at Information Society services if it affects such services only in an implicit or incidental manner.

(*) OJ L 192, 24.7.1990, p. 1. Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).²;

(d) points 4 to 8 shall become points 6 to 10;

(e) point 9 shall be renumbered 11 and shall read as follows:

- ‘11. “technical regulation”, technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in a Member State or a major part thereof, as well as laws, regulations or administrative provisions of Member States, except those provided for in Article 10, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,

- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list to be drawn up by the Commission before 5 August 1999 (*), in the framework of the Committee referred to in Article 5.

The same procedure shall be used for amending this list;

- (f) point 10 shall be renumbered 12 and the first subparagraph shall read as follows:

‘12. “draft technical regulation”, the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made;’

3. Article 6 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

‘The Committee shall meet in a specific composition to examine questions concerning Information Society services.’;

- (b) the following paragraph shall be added:

‘8. With respect to rules on services, the Commission and the Committee may consult natural or legal persons from industry or academia, and where possible representative bodies, capable of delivering an expert opinion on the social and societal aims and consequences of any draft rule on services, and take notice of their advice whenever requested to do so.’;

4. The sixth subparagraph of Article 8(1) shall be replaced by the following:

‘With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point 11 of Article 1, the comments or detailed opinions of the Commission or Member States may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.’;

5. Article 9 shall be amended as follows:

- (a) Paragraphs 2 and 3 shall be replaced by the following:

‘2. Member States shall postpone:

- for four months the adoption of a draft technical regulation in the form of a voluntary agreement within the meaning of the second indent of the second subparagraph of point 11 of Article 1,
- without prejudice to paragraphs 3, 4 and 5, for six months the adoption of any other draft technical regulation (except for draft rules on services),

from the date of receipt by the Commission of the communication referred to in Article 8(1) if the Commission or another Member State delivers a detailed opinion, within three months of that date, to the effect that the measure envisaged may create obstacles to the free movement of goods within the internal market;

- without prejudice to paragraphs 4 and 5, for four months the adoption of any draft rule on services, from the date of receipt by the Commission of the communication referred to in Article 8(1) if the Commission or another Member State delivers a detailed opinion, within three months of that date, to the effect that the measure envisaged may create obstacles to the free movement of services or to the freedom of establishment of service operators within the internal market.

With regard to draft rules on services, detailed opinions from the Commission or Member States may not affect any cultural policy measures, in particular in the audiovisual sphere, which Member States might adopt in accordance with Community law, taking account of their linguistic diversity, their specific national and regional characteristics and their cultural heritage.

The Member State concerned shall report to the Commission on the action it proposes to take on such detailed opinions. The Commission shall comment on this reaction.

With respect to rules on services, the Member State concerned shall indicate, where appropriate, the reasons why the detailed opinions cannot be taken into account.

3. With the exclusion of draft rules relating to services, Member States shall postpone the adoption of a draft technical regulation for twelve months from the date of receipt by the Commission of the communication referred to in Article 8(1) if, within three months of that date, the Commission announces its intention of proposing or adopting a directive, regulation or decision on the matter in accordance with Article 189 of the Treaty;

(b) Paragraph 7 shall be replaced by the following:

'7. Paragraphs 1 to 5 shall not apply in cases where:

- for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants, and for rules on services, also for public policy, notably the protection of minors, a Member State is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or
- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, a Member State is obliged to enact and implement rules on financial services immediately.

In the communication referred to in Article 8, the Member State shall give reasons for the urgency of the measures taken. The Commission shall give its views on the communication as soon as possible. It shall take appropriate action in cases where improper use is made of this procedure. The European Parliament shall be kept informed by the Commission;

6. Article 10 shall be amended as follows:

(a) the first and second indents of paragraph 1 shall be replaced by the following:

- comply with binding Community acts which result in the adoption of technical specifications or rules on services,
- fulfil the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community;

(b) the sixth indent of paragraph 1 shall be replaced by the following:

— restrict themselves to amending a technical regulation within the meaning of point 11 of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators;

(c) paragraphs 3 and 4 shall be replaced by the following:

'3. Paragraphs 3 to 6 of Article 9 shall not apply to the voluntary agreements referred to in the second indent of the second subparagraph of point 11 of Article 1.

4. Article 9 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point 11 of Article 1;

7. Annexes V and VI, which appear in the Annex to this Directive, shall be added.

Article 2

1. Member States shall bring into force the regulations and administrative provisions necessary in order to comply with this Directive by 5 August 1999. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 3

Not later than two years from the date referred to in the first subparagraph of Article 2(1), the Commission shall submit to the European Parliament and the Council an evaluation of the application of Directive 98/34/EC in particular in the light of technological and market developments for the services referred to in point 2 of Article 1. Not later than three years from the date referred to in the first subparagraph of Article 2(1), the Commission shall, if necessary, make proposals to the European Parliament and to the Council for a revision of the said Directive.

To this end, the Commission shall take into account any observations that might be communicated to it by Member States.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 20 July 1998.

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

W. MOLTERER

ANNEX

ANNEX V

Indicative list of services not covered by the second subparagraph of point 2 of Article 11. *Services not provided "at a distance"*

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video-arcade where the customer is physically present.

2. *Services not provided "by electronic means"*

— Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made,

— Off-line services: distribution of CD roms or software on diskettes,

— Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) telefax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/telefax consultation of a doctor;
- (e) telephone/telefax consultation of a lawyer;
- (f) telephone/telefax direct marketing.

3. *Services not supplied "at the individual request of a recipient of services"*

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers (point to multipoint transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
 - (b) radio broadcasting services;
 - (c) (televised) teletext.
-

*ANNEX VI***Indicative list of the financial services covered by the third subparagraph of point 5 of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC ⁽¹⁾; services of collective investment undertakings,
- (b) services covered by the activities subject to mutual recognition referred to in the Annex to Directive 89/646/EEC ⁽²⁾,
- (c) operations covered by the insurance and reinsurance activities referred to in:
 - Article 1 of Directive 73/239/EEC ⁽³⁾,
 - the Annex to Directive 79/267/EEC ⁽⁴⁾,
 - Directive 64/225/EEC ⁽⁵⁾,
 - Directives 92/49/EEC ⁽⁶⁾ and 92/96/EEC ⁽⁷⁾.

⁽¹⁾ OJ L 141, 11. 6. 1993, p. 27.

⁽²⁾ OJ L 386, 30. 12. 1989, p. 1. Directive as amended by Directive 92/30/EEC (OJ L 110, 28. 4. 1992, p. 52).

⁽³⁾ OJ L 228, 16. 8. 1973, p. 3. Directive as last amended by Directive 92/49/EEC (OJ L 228, 11. 8. 1992, p. 1).

⁽⁴⁾ OJ L 63, 13. 3. 1979, p. 1. Directive as last amended by Directive 90/619/EEC (OJ L 330, 29. 11. 1990, p. 50).

⁽⁵⁾ OJ 56, 4. 4. 1964, p. 878/64. Directive as amended by the 1973 Act of Accession.

⁽⁶⁾ OJ L 228, 11. 8. 1992, p. 1.

⁽⁷⁾ OJ L 360, 9. 12. 1992, p. 1.'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 July 1998

on the conclusion of the Agreement in the form of an Exchange of Letters between the European Community and the Islamic Federal Republic of the Comoros concerning the provisional application of the Protocol setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros

(98/484/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal from the Commission,

Whereas, in accordance with Article 12 of the abovementioned Agreement, the Community and the Islamic Federal Republic of the Comoros held negotiations to determine amendments or additions to be made to the Agreement at the end of the period of application of the Protocol to the Agreement;

Whereas, as a result of those negotiations, a new Protocol was initialled on 27 February 1998;

Whereas, under that Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Islamic Republic of the Comoros for the period 28 February 1998 to 27 February 2001;

Whereas the new Protocol must come into force as soon as possible to enable Community vessels to resume fishing; whereas both parties therefore initialled an Agree-

ment in the form of an Exchange of Letters, temporarily applying the Protocol from 28 February 1998;

Whereas the Agreement in the form of an Exchange of Letters should be approved subject to a definitive decision under Article 43 of the Treaty;

Whereas the method for allocating the fishing opportunities among the Member States should be defined on the basis of the transitional allocation of fishing opportunities under the fisheries agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters between the European Community and the Islamic Federal Republic of the Comoros concerning the provisional application of the Protocol setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters and the Protocol are attached to this Decision.

⁽¹⁾ OJ L 137, 2. 6. 1988, p. 19.

Article 2

The fishing opportunities fixed in the Protocol shall be allocated among the Member States as follows:

(a) tuna seiners:

Spain: 22 vessels
France: 21 vessels
Italy: 1 vessel

(b) surface longliners:

Spain: 13 vessels
Portugal: 3 vessels.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol,

the Commission may take into consideration licence applications from any other Member State.

Article 3

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement in order to bind the Community.

Done at Brussels, 20 July 1998.

For the Council

The President

W. MOLTERER

AGREEMENT

in the form of an Exchange of Letters between the European Community and the Islamic Federal Republic of the Comoros concerning the provisional application of the Protocol setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros

A. Letter from the Government of the Islamic Federal Republic of the Comoros

Sir,

With reference to the Protocol initialled on 27 February 1998 setting out, for the period from 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol on a provisional basis with effect from 28 February 1998, pending its entry into force in accordance with Article 7 of the said Protocol, provided that the European Community is disposed to do the same.

In this case, the first annual financial compensation stipulated in Article 2 of the Protocol must be paid before 1 September 1998.

I should be grateful if you would confirm the European Community's agreement with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

*For the Government of
the Islamic Federal Republic of the Comoros*

B. Letter from the Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'With reference to the Protocol initialled on 27 February 1998 setting out, for the period from 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol on a provisional basis with effect from 28 February 1998, pending its entry into force in accordance with Article 7 of the said Protocol, provided that the European Community is disposed to do the same.

In this case, the first annual financial compensation stipulated in Article 2 of the Protocol must be paid before 1 September 1998.

I should be grateful if you would confirm the European Community's agreement with the foregoing.'

I have the honour to confirm that the Community is in agreement with the contents of this letter.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the
Council of the European Union*

PROTOCOL

setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros

Article 1

Pursuant to Article 2 of the Agreement, licences authorising simultaneous fishing in Comorian waters shall be granted to 44 freezer tuna seiners and 16 surface long-liners for a period of three years beginning on 28 February 1998.

Article 2

1. The financial compensation referred to in Article 6 of the Agreement shall be fixed at ECU 180 000 per year, to be paid not later than 1 September each year.
2. This financial compensation shall cover catches of 4 500 tonnes per year in Comorian waters. If the volume of tuna caught by Community vessels in Comorian waters exceeds this volume, the amount of the financial compensation shall be increased by ECU 50 per additional tonne.
3. The financial compensation shall be paid into an account to be indicated by the Government of the Islamic Federal Republic of the Comoros, in the name of the Public Treasury.
4. The use to which the compensation is to be put shall fall within the exclusive competence of the Government of the Comoros.

Article 3

During the period covered by the Protocol, the Community shall contribute an additional ECU 540 000 to financing the measures described below, allocated as follows:

1. the financing of scientific and technical programmes (equipment, infrastructure, improved fisheries-related administrative and training structures, etc.) to increase knowledge of the fishery resources in Comorian waters: ECU 250 000,
2. support for the structures responsible for fisheries surveillance: ECU 70 000,
3. institutional support to the Ministry responsible for fisheries: ECU 50 000,

4. the financing of study grants, practical training courses or seminars in the various scientific, technical and economic fields linked to fishing: ECU 60 000,
5. the Comoros' contribution to the international fisheries organisations: ECU 70 000,
6. the expenses of Comorian delegates participating in international meetings concerning fisheries: ECU 40 000.

The measures will be adopted by the Ministry responsible for fisheries, which will inform the Commission of the European Communities thereof.

The amounts allocated shall be made available to the Government of the Islamic Federal Republic of the Comoros and paid into the bank accounts indicated by it, except the amounts referred to in points 4 and 6 of the first paragraph, which shall be paid as they are used.

The Ministry responsible for fisheries shall transmit an annual report on the implementation of these measures and the results achieved to the Delegation of the Commission of the European Communities in the Comoros, not later than three months after the anniversary date of the Protocol. The Commission of the European Communities reserves the right to request additional information on these results from the Ministry responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

Article 4

Should the Community fail to make the payments provided for in Articles 2 and 3, the Fisheries Agreement may be suspended.

Article 5

The Protocol to the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros is hereby repealed and replaced by this Protocol.

Article 6

This Protocol shall enter into force on the date of its signing.

It shall apply from 28 February 1998.

ANNEX

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN COMORIAN WATERS**1. Application for and issue of licences**

The procedure for application for, and issue of, the licences allowing Community vessels to fish in Comorian waters shall be as follows.

- 1.1. The Commission of the European Communities, through its representative in the Comoros, shall submit to the Comorian Ministry responsible for fisheries, at least 20 days before the date of commencement of the period of validity requested, an application in respect of each vessel wishing to fish under this Agreement, drawn up by the owner. The applications shall be made on the forms provided for that purpose by the Comoros, a specimen of which is attached in Appendix 1.
- 1.2. Licences shall be issued to shipowners for a specific vessel. At the request of the Commission of the European Communities, a licence issued for one vessel may, and in cases of *force majeure* shall, be replaced by a licence issued for another Community vessel.
- 1.3. Licences shall be issued by the Ministry responsible for fisheries to the Commission's representative in the Comoros.
- 1.4. Licences must be held on board at all times; however, fishing shall be authorised as soon as the Comorian Ministry responsible for fisheries has received notification from the Commission of the European Communities that the advance payment has been made. Pending receipt of the original of the licence, a copy of the licence that has been drawn up may be issued by fax to be held on board the vessel.
- 1.5. Licences shall be valid for one year. They shall be renewable.
- 1.6. The licence fee shall be set at ECU 20/tonne of tuna caught in Comorian waters.
- 1.7. Licences shall be issued following advance payment to the Comoros of a lump sum of ECU 1 750 a year for each tuna seiner and ECU 750 a year for each surface longliner.
- 1.8. Before the entry into force of the Agreement the Comorian authorities shall communicate the arrangements for payment of the licence fees, in particular the details of the bank account and the currency to be used.

2. Statement of catch and statement of fees due from shipowners

The captain shall complete a fishing form corresponding to the specimen in Appendix 2 for each period spent fishing in the Comorian fishing zone. The form may be replaced during the period of application of the Protocol by another document devised for the same purpose by an international organisation responsible for tuna-fishing in the Indian Ocean.

The form, which must be legible and signed by the captain of the ship, shall be sent to the Office of Overseas Scientific and Technical Research and the Spanish Oceanographic Institute for processing within one month of the end of each calendar quarter.

If these provisions are not complied with, the Comorian Ministry responsible for fisheries reserves the right to suspend the licence of the offending vessel until these formalities have been carried out and to apply the penalties provided for under national law.

Member States shall inform the Commission of the European Communities before 15 April of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall establish a breakdown of the fees due in respect of a fishing year, which it shall then send to the Comorian Ministry responsible for fisheries for its comments.

Shipowners shall be notified of this breakdown by the Commission of the European Communities by the end of April at the latest and shall have 30 days in which to meet their financial obligations. Shipowners cannot recover the balance in cases where the amount payable in respect of actual fishing operations is less than the advance payment.

3. Inspection and monitoring

Community vessels fishing in the Comorian fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of Comorian officials responsible for the inspection and monitoring of fishing activities. These officials should not remain on board any longer than the time required to verify catches by sampling and carrying out any other inspections relating to fishing activities.

4. Observers

At the request of the Comorian Ministry responsible for fisheries, tuna vessels shall take on board an observer designated by the former to check catches made in Comorian waters. Observers shall have all the facilities needed for the performance of their duties, including access to parts of the ship and documents. Observers shall not remain on board for longer than the time required to carry out their duties. Observers shall be provided with suitable food and accommodation while on board. Should a tuna vessel with a Comorian observer on board leave Comorian waters, every step shall be taken to ensure that the observer returns to the Comoros as soon as possible, at the shipowner's expense.

5. Communication of information

Fishing vessels shall communicate the date and time direct to the Comorian Ministry responsible for fisheries immediately on entering or leaving the Comorian fishing zone and their position and catches held on board within three hours of entering or leaving the zone and every three days while engaged in fishing activities in Comorian waters. This information should preferably be communicated by fax or, for vessels not equipped with a fax, by radio.

The Comorian Ministry responsible for fisheries shall inform vessels of the relevant fax number and radio frequency when the fishing licence is issued.

The Comorian Ministry responsible for fisheries and the shipowners shall keep a copy of fax communications or a recording of radio communications until both parties have agreed to the final statement of fees due referred to in point 2.

A vessel found to be fishing without having informed the Comorian Ministry responsible for fisheries shall be regarded as a vessel without a licence.

6. Fishing zones

To avoid adverse effects on small-scale fisheries in Comorian waters, Community tuna vessels shall not be allowed to fish within 10 nautical miles of any of the islands nor within a radius of three nautical miles of fish aggregating devices placed by the Comorian Ministry responsible for fisheries, the positions of which have been communicated to the representative of the Commission of the European Communities in the Comoros.

These provisions may be reviewed by the Joint Committee referred to in Article 7 of the Agreement.

7. Ownership of rare species

Any coelacanth (*Latimeria chalumnae*) caught by a Community vessel authorised to fish in Comorian waters under the Agreement remains the property of the Comoros and must be turned over, without charge, to the port authorities of Moroni or Mutsamudu immediately in the best state possible.

8. Transhipment

Community vessel owners must give consideration to the existence of the harbour facilities of Mutsamudu for any transhipment operations.

Appendix 1

LICENCE APPLICATION FORM FOR A FOREIGN FISHING VESSEL

Name of applicant:

Address of applicant:

.....

Name and address of charterer of vessel if different from above:

.....

Name and address of representative (agent) in Comoros:

.....

Name of vessel:

Type of vessel:

Country of registry:

Port and registration number:

Vessel's external identification:

Radio call sign and frequency:

Length of vessel:

Width of vessel:

Engine type and horsepower:

Gross registered tonnage of vessel:

Net registered tonnage of vessel:

Minimum crew:

Type of fishing:

Proposed catch species:

.....

Period of validity requested:

I, the undersigned, certify that the above particulars are correct.

Date:

Signature:



Appendix 2

COMMISSION

COMMISSION RECOMMENDATION

of 1 July 1998

on childcare articles and toys intended to be placed in the mouth by children of less than three years of age, made of soft PVC containing certain phthalates

(notified under document number SEC(1998) 738)

(98/485/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155, second indent, thereof,

Whereas, pursuant to the Treaty establishing the European Community, the Community must contribute to the attainment of a high level of consumer health protection;

Whereas, pursuant to Article 3 of Council Directive 92/59/EEC of 29 June 1992 on general product safety⁽¹⁾, only safe products may be placed on the market; whereas the Directive emphasises in particular the need to ensure a high level of protection for the health and safety of children;

Whereas the Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE), after being consulted by the Commission, delivered an opinion on 24 April 1998, supplemented by clarifications on 16 June 1998, on the effects on the health of children of the use of certain phthalate-containing soft PVC toys and childcare articles; whereas in this opinion it expressed its concern about the exposure of children to some of these phthalates;

Whereas the SCTEE has in particular recommend that certain limit values for the migration of the phthalates DINP, DEHP, DBP, DIDP, DNOP and BBP released by soft PVC toys and childcare articles intended to be placed in the mouth by children of less than three years of age should not be exceeded;

Whereas it is important that Member States take the measures required to ensure a high level of child health

protection in regard to these products, pending the implementation of permanent Community measures;

Whereas the said migration limit values are liable to be exceeded in certain cases; whereas it is therefore important that the Member States proceed, in the context of appropriate checks, to monitor the level of exposure of children to phthalates which may be caused by the migration of these substances when using the products in question;

Whereas it is important that Member States should exchange information on the test and measurement methods used in these checks and on the results obtained and that they should collaborate among themselves and with the Commission in order to achieve as consistent as possible an approach throughout the Community, pending the adoption of a standardised method;

Whereas it is appropriate in the context of this collaboration, to examine, *inter alia*, the results of the ongoing study in the Netherlands concluded by the Rijksinstituut voor Volksgezondheid en Milieu (RIVM), which may make it possible to define a common reference method;

Whereas, whenever a Member State restricts the placing on the market of products covered by this recommendation, it must inform the Commission in line with the procedure prescribed in Article 7 of Directive 92/59/EEC on general product safety, in the case of childcare articles, Article 7 of Council Directive 88/378/EEC⁽²⁾ of 3 May 1988 on the safety of toys, in the case of toys, or in accordance with the Article 8 procedure of Directive 92/59/EEC, if it considers that there is a serious and immediate risk and, where appropriate, proceed to notify the Commission in compliance with Council Directive

⁽¹⁾ OJ L 228, 11. 8. 1992, p. 24.

⁽²⁾ OJ L 187, 16. 7. 1988, p. 1.

83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽¹⁾,

HEREBY RECOMMENDS:

Article 1

1. Member States shall adopt the measures required to ensure a high level of child health protection in regard to phthalate-containing soft PVC childcare articles and toys intended to be placed in the mouth of less than three years of age, and notably the substances di-iso-nonyl phthalate (DINP), di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), di-iso-decyl phthalate (DIDP), di-n-octyl phthalate (DNOP), and butylbenzyl phthalate (BBP). Particular attention should be paid to the substances DINP and DEHP.

2. In vetting the products in question, Member States shall monitor the levels of migration of these substances in the context of appropriate checks, taking into account the opinion on phthalates in toys delivered by the Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE) on 24 April 1998 and notably the migration limit values for phthalates released by these products recommended by this Committee and reproduced in the Annex.

3. Member States shall regularly inform the Commission of the test methods and measurement methods used to determine the levels of migration in question, the results of the checks, and the conclusions they have

reached; Member States are invited to furnish initial information before the end of August 1998.

4. Member States shall participate in the exchange of information with other Member States and in work to ensure a consistent approach to test and measurement methods and to identifying a common method, which will be organised by the Commission.

Article 2

For the purpose of this recommendation,

- (1) *toy*: means any product designed or clearly intended for use in play by children,
- (2) *childcare article*: means any product designed to facilitate sleep, relaxation, the feeding of children, or sucking on the part of children.

Article 3

This recommendation is addressed to the Member States.

Done at Brussels, 1 July 1998.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ L 109, 26. 4. 1983, p. 8.

ANNEX

Substance	Maximum tolerable extractable quantity ⁽¹⁾ (mg)
DINP	1,2
DNOP	3,0
DEHP	0,4
DIDP	2,0
BBP	6,8
DBP	0,8

⁽¹⁾ These quantities relate to a sample with a surface of 10 cm², over a test period of six hours, for a child weighing 8 kg.