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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 5 June 1991

concerning aid granted by the Autonomous Region of Sardinia to Ferriere Acciaierie Sarde

(Only the Italian text is authentic)

(91/547/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4 (c) thereof,

Having regard to Commission Decision No 3484/85/ECSC of 27 November 1985 establishing Community rules for aid to the steel industry ⁽¹⁾,

Having regard to Commission Decision No 322/89/ECSC of 1 February 1989 establishing Community rules for aid to the steel industry ⁽²⁾,

Having given the interested parties notice to submit their observations and having regard to those observations,

Whereas:

I

In 1987 the authorities of the Autonomous Region of Sardinia granted Ferriere Acciaierie Sarde (FAS) aid

totalling Lit 1,796 billion (about ECU 1,17 million) under regional Law No 41/87 of 14 September 1987 aimed at protecting the island's environment by granting aid for the selective disposal, recycling and reutilization of waste. The Italian authorities informed the Commission of the grant by letter dated 26 January 1989 and also notified the aid scheme set up by Law No 41/87, which the Commission approved on 28 November 1990.

Having obtained details of Law No 41/87 by letter of 5 July 1989, the Commission informed the Italian authorities that the provisions of Article 4 (c) of the ECSC Treaty and Decision No 3484/85/ECSC did not allow ECSC steel undertakings to benefit from the aid establishing by the regional Law in question.

By letters dated 14 December 1989 and 26 February 1990 the Commission reminded the Italian authorities that the aid arrangements established by Law No 41/87 were incompatible with the ECSC Treaty-based rules on aid and called for the repayment of the aid granted to FAS. In the meantime, an alternative solution had been devised: a company would be set up in order to collect and resell scrap, an activity not covered by the ECSC Treaty and therefore coming under the EEC Treaty, making it eligible for aid under Law No 41/87. The Commission accepted this solution on condition it did not lead to indirect aid being granted to an ECSC undertaking in the form of scrap sales at lower prices than those charged on the market in mainland Italy.

⁽¹⁾ OJ No L 340, 18. 12. 1985, p. 1.

⁽²⁾ OJ No L 38, 10. 2. 1989, p. 8.

By letter dated 24 April 1990 the Italian authorities undertook not to grant such aid to the ECSC steel industry, and by letter dated 8 June 1990 received by the Commission on 20 July 1990, they agreed to recover the aid granted to FAS in 1987, indicating that the terms for the repayment were being examined.

The Commission therefore gave the company and the regional authorities time to work out the best method of repayment.

No further news having been received, it sent a telex to the Italian authorities on 23 October 1990. The latter replied on 26 November 1990 that the repayment was still being negotiated with the company.

II

The disputed aid had been paid without being notified in advance to the Commission, in breach of Article 6 (1) of Decision No 3484/85/ECSC.

The provisions of that Decision and in particular Article 3 relating to aid for environmental protection together with those of Decision No 322/89/ECSC, in force from 1 January 1989, and the ban on all aid contained in Article 4 (c) of the ECSC Treaty do not allow the aid in question to be considered compatible with the common market.

For these reasons and in view of the fact that after nearly five months of discussion no repayment plan has been agreed between the Region and the company, the Commission initiated the procedure provided for in Article 6 (4) of Decision No 322/89/ECSC and gave the Italian authorities notice to submit their observations by letter of 19 December 1990. At the same time, it made it clear that the aid scheme established by Law No 41/87 was compatible with the EEC Treaty and approved it provided that the aid was not granted to an ECSC firm.

Under that procedure, the Italian authorities submitted their observations by letter of 28 January 1991 received by the Commission on 4 April 1991.

Their first argument was that, as the aid was intended to improve public health and had been granted pursuant to the aid scheme established by Law No 41/87 approved by the Commission in November 1990, it was perfectly legal.

Secondly, they asked the Commission to take account in its assessment of Sardinia's special situation, from both the geographical and the socio-economic standpoint.

In the course of the procedure, comments were received from one trade association and not from any Member State. These were transmitted to the Member State in question, which did not make any particular observations.

III

FAS manufactures concrete-reinforcing bars. These are listed in Annex I to the ECSC Treaty under Code No 4400 and are therefore covered by the rules laid down in that Treaty and not those of the EEC Treaty, particularly where State aid is concerned. FAS is an ECSC undertaking in accordance with Article 80 of the ECSC Treaty.

Consequently, the fact that the Commission did not object under Article 92 and 93 of the EEC Treaty to the aid scheme established by Law No 41/87 does not render legal the grant of such aid to an ECSC undertaking. The Commission in fact expressly made it a condition of its approval that the aid must not be granted to ECSC steel firms.

Article 4 (c) of the ECSC Treaty provided that subsidies or aid granted by States, or special charges imposed by States, in any form whatsoever, are recognized as incompatible with the common market for coal and steel and are accordingly to be abolished and prohibited within the Community, as provided in the Treaty. This ban applies both to individual grants specifically intended for the steel industry and to the application of general or regional schemes to this industry. Unlike Article 91 (1) of the EEC Treaty, the ban is absolute in that it does not take account of the effects of the aid on intra-Community competition.

The only exemptions from the above general ban which could or can be granted were or are spelt out exhaustively in the various steel aid codes, notably Decision No 3484/85/ECSC in force from 1 January 1986 to 31 December 1988 followed by Decision No 322/89/ECSC applicable since 1 January 1989.

The aid concerned is research and development aid, environmental protection aid, certain forms of closure aid and, in cases where the recipient firm is located in the former German Democratic Republic or a Member State where no aid has been granted pursuant to Commission Decisions No 80/257/ECSC⁽¹⁾ or No 2320/81/ECSC⁽²⁾, as last amended by Decision No 1018/85/ECSC⁽³⁾, and which became a member of the Community during the period of validity of those Decisions (i.e. Greece), certain regional investment aids.

(1) OJ No L 62, 7. 3. 1980, p. 28.

(2) OJ No L 228, 13. 8. 1981, p. 14.

(3) OJ No L 110, 23. 4. 1985, p. 5.

Since that last clause does not apply to Italy, no regional aid may be paid to a steel firm located within its territory. The fact that Sardinia may have special geographic or socio-economic features does not justify granting such aid to one of its steel firms.

Article 3 of Decision No 3484/85/ECSC only authorizes environmental protection aid for bringing into line with new statutory environmental standards plants which entered into service at least two years before the introduction of those standards. Any other forms of environmental aid are excluded from the exemption in this Article and may not therefore legally be granted to an ECSC steel undertaking.

The aid objected to involved the granting to FAS in 1987 of Lit 100 (ECU 0,06) per kilogram of scrap collected in the island and reutilized by it. FAS, however, was already producing steel from scrap in an electric furnace, 'scrap steelmaking' competing with 'pig-iron steelmaking' and not resulting in any particular environmental improvement. The aid in fact encouraged FAS to obtain its raw material in the island rather than import it. It meant a substantial reduction in its operating costs in relation to the average price of 'heavy' scrap on the Italian market (Lit 112 to 130 per kilogram in 1987 and Lit 141,5 per kilogram in early 1991). Lastly, it was not reflected in expenditure aimed at bringing the company's plant into line with new environmental protection standards. It does not therefore satisfy the tests of the abovementioned Article 3 and does not qualify for exemption.

In addition, it does not qualify for any of the other exemptions provided for in Decision No 3484/85/ECSC and incorporated again in Decision No 322/89/ECSC and is consequently caught by the ban in Article 4 (c) of the ECSC Treaty.

IV

The exemptions from the basic prohibition of aid to the steel industry laid down in Article 4 (c) of the ECSC Treaty are in no way designed to relax the discipline imposed by the Community on such aid and intended to prevent the serious distortions of competition which might be caused by aid that was incompatible with the common market in an industry which, despite recent restructuring, remains sensitive. Strict compliance with this Community discipline must therefore be ensured, and this means that aid to a steel firm may be authorized only after the Commission has been able to check that the conditions spelt out in

exhaustive fashion in the aid code have effectively been met.

It is clear from the foregoing that these conditions have not been met since part of the aid was granted without being notified in advance to the Commission contrary to Article 6 (1) of Decision No 3484/85/ECSC and since the aid does not qualify for any of the exemptions available under that Decision. In view of the fact that the arguments advanced by the Italian authorities have not included the Commission to change the assessment it made when it initiated the procedure, the aid in question must be considered incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The aid of Lit 1,796 billion (approximately ECU 1,17 million) granted in 1987 by the Autonomous Region of Sardinia to Ferriere Acciaierie Sarde pursuant to Regional Law No 41 of 14 September 1987 is illegal State aid as it was granted without prior authorization from the Commission and is also incompatible with the common market.

The aid in question shall be withdrawn through recovery.

Article 2

The Italian authorities shall inform the Commission, within two months of the date of notification of this Decision, of the measures taken to comply herewith.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 5 June 1991.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 17 July 1991

approving the grant of aid by Portugal to the coal industry in 1990

(Only the Portuguese text is authentic)

(91/548/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 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry ⁽¹⁾,

Whereas:

I

By letter of 7 December 1990 the Portuguese Government informed the Commission, in accordance with Article 9 (2) of Decision No 2064/86/ECSC, of the financial measure it intends to take to support the coal industry in 1990.

By letter of 16 April 1991 the Portuguese Government submitted further information, in response to the Commission's letter of 25 January 1991, on the business strategy of the undertaking Carbonifera do Douro, as required by Article 2 of Commission Decision No 91/2/ECSC ⁽²⁾.

Aid to cover operating losses in 1990 of the undertaking Carbonifera do Douro totalling Esc 828 290 000 for production of about 0,22 million tonnes has been submitted by the Portuguese Government for approval by the Commission in accordance with that Decision.

II

The increase in aid compared with 1989 must be viewed in the light of the objective of Decision No 2064/86/ECSC, in particular those of Article 2 (1) thereof.

For a number of years, the undertaking Carbonifera do Douro has been implementing a modernization and rationalization plan which has led to some improvement in

productivity. However, this improvement has not been fully reflected in production costs, which have risen steadily by over 30 % since 1985.

In addition, the undertaking Carbonifera do Douro has devised a business strategy aimed at progressively reducing its production and workforce between 1990 and 1994, when total closure of the undertaking is planned. This strategy was necessary partly because difficulties in mechanizing the mine were pushing up production costs and partly because prospects for coal prices did not indicate any improvement in the competitiveness of the undertaking's production capacity.

In the long term, this state of affairs would lead to a continual decline in competitiveness and mounting operating losses which would have to be covered by ever higher subsidies.

The aid proposed will cover the difference between projected average costs and projected average revenue for each tonne produced. The aid will not exceed expected operating losses and hence complies with the conditions laid down in Article 3 (1) of the Decision.

This measure will facilitate gradual closure of the mine and hence contribute to solving the social and regional problems related to developments in the coal industry, in accordance with the third indent of Article 2 (1).

III

In view of the foregoing and of the information supplied by the Portuguese authorities, the aid to be granted to the current production of the Portuguese coal industry in 1990 is compatible with the objectives of Decision No 2064/86/ECSC and with the proper functioning of the common market.

IV

Pursuant to Article 11 (2) of Decision No 2064/86/ECSC, the Commission must ensure that the direct aid to current production which it authorizes is used exclusively for the

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 5, 1. 7. 1986, p. 25.

purposes set out in Articles 3 and 6 thereof. It must therefore be informed of the amounts of the payments and the manner in which they are apportioned,

Article 2

Portugal shall inform the Commission at the latest by 31 December 1991 of the actual amount of aid paid in 1990.

HAS ADOPTED THIS DECISION

Article 3

This Decision is addressed to the Portuguese Republic.

Article 1

Done at Brussels, 17 July 1991.

Portugal is hereby authorized to grant aid totalling Esc 828 290 000 to the coal industry to cover operating losses for the 1990 calendar year.

For the Commission

Antonio CARDOSO E CUNHA

Member of the Commission

COMMISSION DECISION

of 20 September 1991

concerning animal health conditions and veterinary certification for the importation of
bovine semen from Canada

(91/549/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in, and imports of, deep-frozen semen of domestic animals of the bovine species ⁽¹⁾, at last amended by Directive 90/425/EEC ⁽²⁾, and in particular Articles 10 and 11 thereof,

Whereas Canada appears in the list, established by Commission Decision 90/14/EEC ⁽³⁾, of third countries from which Member States authorize importation of semen of domestic animals of the bovine species;

Whereas it appears that the animal health situation in Canada is good and controlled by well-structured and organized veterinary services as regards diseases transmissible through semen;

Whereas the competent veterinary authorities of Canada have confirmed that Canada has for at least 12 months been free from rinderpest, foot-and-mouth disease and contagious bovine pleuro-pneumonia and that no vaccinations have been carried out against those diseases during that time;

Whereas the competent veterinary authorities of Canada have undertaken to notify the Commission of the European Communities and the Member States by telex or telefax, within 24 hours, of the confirmation of any occurrence of any of the above diseases in any part of Canada or of any change in vaccination policy concerning any of them or of the confirmation of any occurrence of bluetongue or of epizootic haemorrhagic disease in any part of Canada other than in the Okanagan Valley or, within an appropriate period, of any proposed change in the Canadian import rules concerning domestic animals or the semen or embryos thereof;

Whereas the competent veterinary authorities of Canada have provided animal health guarantees in respect of bovine tuberculosis and brucellosis which are equivalent to those applicable within the Community;

Whereas the competent veterinary authorities of Canada have undertaken to supervise officially the issue of certificates arising from this Decision and to ensure all relevant certificates, derogations and laboratory findings on which certification may have been based remain on official file for at least 12 months following the dispatch of the semen to which they refer;

Whereas the competent veterinary authorities of Canada have undertaken to approve officially semen collection centres for the export of bovine semen to the European Economic Community as required by Article 9 of Directive 88/407/EEC;

Whereas animal health conditions and veterinary certification must be adapted according to the animal health situation of the third country concerned;

Whereas bluetongue has been confirmed in the Okanagan Valley region of British Columbia, Canada; whereas this region presents particular geographic and climatic features which confine that disease to a zone within the region;

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

Member States shall authorize the importation from Canada (with the exception of the Okanagan Valley region of British Columbia, as defined in Annex II to this Decision) of bovine semen which conforms to the

⁽¹⁾ OJ No L 194, 22. 7. 1988, p. 10.

⁽²⁾ OJ No L 224, 18. 8. 1990, p. 29.

⁽³⁾ OJ No L 8, 11. 1. 1990, p. 71.

conditions set out in the certificate in Annex I A and, where relevant, the certificate in Annex I B to this Decision.

Done at Brussels, 20 September 1991.

Article 2

This Decision is addressed to the Member States.

For the Commission

Ray Mac SHARRY

Member of the Commission

ANNEX I A

ANIMAL HEALTH CERTIFICATE
for the importation of bovine semen from Canada

Certificate No:

Country of collection: Canada (excluding the Okanagan Valley)

Competent authority: Agriculture Canada

I. Identification of semen:

Centre identity code:

Centre approval No:

Name of donor	Breed	Identity code	Date of birth	Date of Collection	Number of doses

(Strike out unused entries. This certificate applies only to semen collected at a single approved collection centre.)

Marks on seal applied to transport container:

II. Origin of semen

Address of semen collection centre:

.....

III. Destination of semen:

The semen will be sent from:

(place of sealing and loading)

to:

(country and place of destination)

by:

(means/identification of transport)

Name and address of consignor:

.....

Name and address of consignee:

IV. Health information:

I, the undersigned official veterinarian, certify that:

1. Canada has been free, during a period commencing at least 12 months before the first collection of the semen described above and finishing 30 days after the final collection of such semen, from cattle plague (rinderpest);
2. the approved semen collection centre in which the semen described above was collected:
 - (a) has been approved, on the basis that it conforms to all the provisions of this paragraph, by the official veterinary authority of Canada for the export of bovine semen to the European Community;
 - (b) is situated at the centre of an area of 50 km radius in which, during a period commencing at least three months before the first collection of the semen described above and finishing 30 days after the final collection of such semen, there has been no evidence of foot-and-mouth disease, contagious bovine pleuro-pneumonia or vesicular stomatitis;
 - (c) has been free, during a period commencing at least three months before the first collection of semen described above and finishing 30 days after the final collection of such semen, from foot-and-mouth disease and brucellosis;
 - (d) has been free, during a period commencing at least 30 days before the first collection of the semen described above and finishing 30 days after the final collection of such semen, from rabies, anthrax, tuberculosis, enzootic bovine leukosis, or any evidence of infection with *Trichomonas foetus*, *Campylobacter foetus*, *Leptospira canicola*, *Leptospira pomona*, *Leptospira grippotyphosa*, *Leptospira hardjo* or *Leptospira icterohaemorrhagica*;
 - (e) is inspected by an official veterinarian at least twice a year at which times all matters relating to the conditions set out in this certificate are considered and verified;
 - (f) is under the permanent supervision of a centre veterinarian and is so supervised that:
 - (i) animals are admitted only with the express permission of the centre veterinarian, all movements of animals, in or out, being recorded;
 - (ii) a record is kept of the breed, date of birth, identification and health history of each bovine animal in the centre and of all diagnostic tests and the results thereof, all treatments and all vaccinations carried out on the animals kept therein;
 - (iii) the entry of unauthorized persons is prevented and authorized visitors are required to comply with the conditions laid down by the centre veterinarian;
 - (iv) only technically competent staff are employed, suitably trained in disinfection procedures and hygiene techniques relevant to the control of the spread of disease;
 - (g) contains only bovine animals, except that other domestic animals strictly necessary for the normal operation of the centre may be admitted provided that they present no risk of infection to the bovine species and that they fulfil the conditions laid down by the centre veterinarian;
 - (h) is so constructed that:
 - (i) it has animal accommodation physically separated from the semen processing and semen storage rooms, which are physically separated from each other;
 - (ii) it has an isolation facility for sick animals;
 - (iii) it has a semen collection facility which has a separate room for the cleaning and disinfection or sterilization of equipment;
 - (iv) it has a semen processing room and a semen storage room (which need not necessarily be on the same site);
 - (v) contact with outside livestock is prevented;
 - (vi) the entire centre is capable of being readily cleaned and disinfected;

provided that, where the above conditions are fulfilled, an approved semen collection centre may share a site with one or more other semen collection centres;

3. the bulls present in the approved semen collection centre during the period of collection and storage of the semen described above:

- (a) were in the approved semen collection centre on, and continuously since, 1 January 1990, and have since their arrival been subjected to all the tests described, with the results provided for, at (d) below;

or

- (b) were transferred from an approved semen collection centre without coming into contact with animals of a lesser health status and, where applicable, in transport which was thoroughly cleansed and disinfected before use;

or

- (c) were admitted, on the authority of the centre veterinarian and showing no clinical signs of disease:

- (i) having originated in herds deemed to be free of tuberculosis under the national tuberculosis eradication programme of Canada and not having been held at any time in herds of lower status;

- (ii) having originated in herds deemed to be free of brucellosis under the national brucellosis eradication programme of Canada and not having been held at any time in herds of lower status;

- (iii) having:

- originated in herds free for at least three years from any evidence for enzootic bovine leukosis, or
- been produced by cows which were subjected, within 30 days before the entry of their sons into the officially-approved isolation facility, to a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Council Directive 64/432/EEC with negative result, or
- been subjected, within 30 days before entry into the officially-approved isolation facility or after having reached the age of two years, whichever is the later, to a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Directive 64/432/EEC with negative result;

- (iv) having been subjected, within 30 days before entry to the officially-approved isolation facility, to the following tests with negative result in each case:

- an official tuberculin test,
- an official serum agglutination test for brucellosis which is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units),
- a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Directive 64/432/EEC,
- a serum neutralization test or Elisa test for the detection of serum antibodies to infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis,
- a virus isolation test for bovine viral diarrhoea on blood samples in susceptible cell cultures subsequently subjected to a fluorescent antibody test or an immunoperoxidase test provided that, if at the time of its entry any bull was less than six months old, the test was delayed until the animal reached that age,
- a blocking Elisa test for bluetongue using a group specific monoclonal antibody carried out according to the procedure laid down in Annex I to Commission Decision 91/189/EEC,
- an agar gel immunodiffusion test for all serotypes of epizootic haemorrhagic disease found in Canada carried out according to the procedure laid down in Annex I to Commission Decision 91/189/EEC,

granted that all or any of the above tests may have been carried out while the animals were in the officially approved isolation facility provided that if the result of any test was other than negative the isolation period of 30 days for the other bulls in the isolation facility was not considered to have commenced until after the animal concerned had been removed from the facility and, if applicable, the tuberculosis or brucellosis status of the facility had been restored;

- (v) having, after the completion of the pre-isolation tests described in (iv) above, undergone a period of at least 30 days in an officially approved isolation facility which was, at the date of their entry, at the centre of an area of 10 km radius in which there has been no evidence of foot-and-mouth disease, cattle plague (rinderpest), contagious bovine pleuro-pneumonia or vesicular stomatitis, the centre having been free for at least three months from foot-and-mouth disease and brucellosis and for at least 30 days from rabies, anthrax, tuberculosis and enzootic bovine leukosis and in which they were subjected to the following tests with negative result in each case:
- an official serum agglutination test for brucellosis which is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units),
 - either an immunofluorescent antibody test or a culture test for *Campylobacter foetus* infection on a sample of preputial material or artificial vaginal washings,
 - a microscopic examination and a culture test for *Trichomonas foetus* infection on a sample of preputial material or artificial vaginal washings,
 - a serum neutralization test or Elisa test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis,

provided that if the result of any test was other than negative the isolation period of 30 days for the remaining animals was not considered to have commenced until after the animal concerned had been removed from the facility and, where relevant, the brucellosis status of the facility had been restored, and in which they were treated against leptospirosis by the injection on two separate occasions, 14 days apart, of streptomycin or dihydrostreptomycin, or a mixture thereof, at a rate of 25 mg per kg of live body weight;

(d) were subjected at least once a year to the following tests with negative result in each case:

- (i) an official tuberculin test;
- (ii) an official serum agglutination test for brucellosis that is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units);
- (iii) a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Directive 64/432/EEC;
- (iv) a serum neutralization test or Elisa test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis, provided that, in respect of semen collected prior to 31 December 1992 and where the competent authority of the importing Member State has so indicated in writing, the semen of bulls positive to either of these tests may be accepted provided a virus isolation and/or animal inoculation test for the above disease complex has been carried out on such semen with negative result, in this latter case the test having been carried out on at the laboratory;
- (v) either an immunofluorescent antibody test or a culture test for *Campylobacter foetus* infection on a sample of preputial material or artificial vaginal washings, except that no test under this heading is required in the case of animals which are not being used for the production of semen provided that such a test is carried out before semen production is resumed;
- (vi) a serological test for the *canicola*, *pomona*, *grippytyphosa*, *hardjo* and *icterohaemorrhagica* serotypes of *Leptospira*,

and at least once every six months to the following tests with negative result in each case:

- (i) a blocking Elisa test for bluetongue using a group specific monoclonal antibody carried out according to the procedure laid down in Annex I to Decision 91/189/EEC;
 - (ii) an agar gel immunodiffusion test for all serotypes of epizootic haemorrhagic disease found in Canada carried out according to the procedure laid down in Annex I to Decision 91/189/EEC;
- all the above tests (with the exception of the tuberculin test) being carried out in a laboratory approved for the purpose by the official veterinary authority of Canada;

4. the semen described above was:

- (a) collected, without the use of electro-ejaculation or electro-stimulation techniques, in an approved semen collection centre from bulls:
 - (i) which have been continuously on the territory of Canada, excluding the Okanagan Valley, during a period commencing at least six months before the first collection of the semen described above and finishing on the date of its dispatch;
 - (ii) which, other than as provided for in a written derogation given in the terms of 3 (d) (iv) above, have not given a positive result to any of the tests referred to in this certificate;
 - (iii) which were not, while in the approved semen collection centre, used for natural service;
 - (iv) which were kept in the approved semen collection centre for a continuous period of at least 30 days immediately prior to the collection of the semen;
 - (v) which showed no clinical signs of disease at the time;
- (b) processed in an approved semen collection centre:
 - (i) in which, during the collection of the semen described above, no semen was processed other than semen from bulls in approved centres or semen from bulls having the same health status as bulls in approved centres, provided that in the latter case such processing took place with separate equipment and at different times to the processing of semen from approved centres and that the processing facility was thoroughly cleansed and disinfected before being again used for the processing of semen from bulls in approved centres;
 - (ii) in conditions of the strictest hygiene, all implements and equipment coming into contact with the donor bulls or with the semen being properly disinfected or sterilized, as appropriate, before use;
 - (iii) using additives, diluents or extenders in which any products of animal origin were obtained from sources which presented no animal health risk or which were so treated prior to use that such risk was prevented;
- (c) protected by the addition of the following antibiotics in such quantities as were necessary to produce the indicated concentrations in the final diluted semen:

not less than:

 - 500 IU per ml streptomycin,
 - 500 IU per ml penicillin,
 - 150 µg per ml lincomycin,
 - 300 µg per ml spectinomycin,

and immediately afterwards held at a temperature of not less than 5 °C (41 °F) for a period of not less than 45 minutes,

or

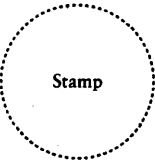
not less than:

 - 50 µg per ml tylosin,
 - 250 µg per ml gentamycin,
 - 150 µg per ml lincomycin,
 - 300 µg per ml spectinomycin,

contact between the antibiotic and the undiluted semen being maintained for at least three minutes at the temperature at which they were mixed and the semen and the non-glycerol fraction of the diluent being held at a temperature of not less than 5 °C (41 °F) for at least two hours;
- (d) put into individual containers (straws) each marked with the date of collection, the breed and identity of the donor bull and the identity of the approved centre of collection, provided that such information, or any part of it, may have been marked in code where a full translation of such code has been made available to the competent authority of the importing Member State, and provided that there is a clear correspondence between the marking on each straw and the identification incorporated in this certificate;
- (e) stored, in containers which have been thoroughly cleansed and disinfected or sterilized, as appropriate, before use and using cryogenic agents which have not previously been used for any other product of animal origin, in the approved semen collection centre under the supervision of the centre veterinarian for a period of not less than 30 days prior to dispatch;
- (f) not exported after the date of a positive test on any bull in the centre, other than a test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis as provided for in a written derogation given under the terms of 3 (d) (iv) above, and before the health status of the centre has been re-established;

(g) dispatched in containers which have been thoroughly cleansed and disinfected or sterilized, as appropriate, before use and using cryogenic agents which have not previously been used for any other product of animal origin and which have been sealed under the supervision of the federal veterinarian prior to dispatch from the approved semen collection centre.

Done at , on
(place) (date)



Signature

Name in block letters

Official title

ANNEX I B

SUPPLEMENTARY CERTIFICATE

for the transfer of semen from one container to another for shipment from Canada to the European Economic Community

I, the undersigned official veterinarian, certify that:

The semen to which the certificates and seals indicated below refer was transferred, in an approved semen collection centre and under my direct supervision, from the containers in which it was received, seals intact, to the container in which it is to be despatched to the European Economic Community.

Centre of origin	Certificate No	Seal No

The transfer was carried out at:

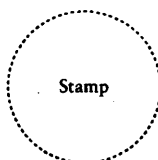
.....

Approval No:

The seal applied to the shipment container carries the marks:

The certificates in respect of all the semen in the container are attached.

Done at, on
(place) (date)



Signature

Name in block letters

Official title

*ANNEX II***The Okanagan Valley region of British Columbia**

From a point on the Canada/United States border

120°15' longitude, 49° latitude

northerly to a point

119°35' longitude, 50°30' latitude

north-easterly to a point

119° longitude, 50°45' latitude

southerly to a point on the Canada/United States border

118°15' longitude, 49° latitude.

COMMISSION DECISION

of 26 September 1991

concerning applications for refund of anti-dumping duties collected on certain imports of compact disc players originating in Japan
(Analog and Digital Systeme GmbH)

(Only the German text is authentic)

(91/550/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Community⁽¹⁾, and in particular Article 16 thereof,

Whereas:

A. PROCEDURE

- (1) Council Regulation (EEC) No 112/90⁽²⁾ imposed a definitive anti-dumping duty on imports of certain compact disc players originating in Japan and the Republic of Korea. A duty of 32 % was imposed on products originating in Japan, save where otherwise provided. Since Asahi Corporation was not among the exporters to which a lower duty was applied, imports into the Community of its compact disc players are subject to a duty of 32 %.
- (2) Between February and May 1991, Analog and Digital Systeme GmbH, an independent importer based in Kronberg am Taunus, Germany, made three applications for refund of definitive anti-dumping duties paid on the importation of compact disc players produced and exported by Asahi Corporation. The first application concerned imports in November 1990. The other applications concerned imports in March and April 1991. The total amount requested is DM (...) ⁽³⁾, representing all the anti-dumping duty paid on the imports in

question. The applications, addressed to the German customs authorities, were forwarded to the Commission. The applicant supplied data permitting the calculation of normal value for the six months preceding each import operation, as provided for in points 1 (3) (B) (a) and 1 (7) of the Commission notice concerning the reimbursement of anti-dumping duties⁽⁴⁾.

- (3) The Commission asked the applicant for further information on normal value, which was supplied to the Commission by Asahi Corporation at the request of the applicant.
- (4) The applicant was informed of the preliminary results of the examination and given an opportunity to comment.
- (5) The Commission informed the Member States and gave its opinion on the matter. No Member State raised any objection.

B. ARGUMENT OF THE APPLICANT

- (6) Essentially, the applicant argued that it had paid export prices significantly in excess of the normal value of the imported compact disc players.

C. ADMISSIBILITY

- (7) Article 16 of Regulation (EEC) No 2423/88 provides that applications for refund of anti-dumping duty must be submitted within three months of the date on which the amount of the definitive duties to be levied was duly determined. The applications are thus admissible since they were submitted in accordance with the relevant Community legislation.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 13, 17. 1. 1990, p. 21.

⁽³⁾ In the text of this Decision for publication some figures have been omitted in accordance with the provisions on commercial confidentiality set out in Article 8 of Regulation (EEC) No 2423/88.

⁽⁴⁾ OJ No C 266, 22. 10. 1986, p. 2.

D. MERITS OF THE CLAIM

- (8) The applications must be accepted in part. Article 16 (1) of Regulation (EEC) No 2423/88 makes it the responsibility of the importer who has paid an anti-dumping duty and is applying for refund of that duty to show that the duties collected exceed the dumping margin calculated for the relevant period of investigation corresponding to the six-month period preceding the imports on which the duty has been collected. This actual dumping margin must normally be calculated using the same method as that applied during the initial investigation.
- (9) Asahi Corporation had not cooperated in the initial Commission investigation. However, Analog and Digital Systeme GmbH had already submitted applications for refund of anti-dumping duties paid for imports of compact disc players exported by Asahi Corporation between July 1989 and December 1990.
- The Commission therefore opened an investigation. The applications were accepted in part by Decision 91/302/EEC ⁽¹⁾.
- (10) The investigation carried out following the initial applications for refund of duties showed that the Asahi Corporation's dumping margin was 5,2 % in the case of imports in 1990.
- The imports referred to in the first of the applications examined in connection with this Decision date from November 1990, namely during the period for which a dumping margin of 5,2 % had already been established.
- The Commission therefore finds the dumping margin on imports from Asahi Corporation to be 5,2 % in the case of imports referred to in the first application.
- (11) In the case of the imports referred to in the other two applications, the Commission was obliged to calculate the normal value of compact disc players produced by Asahi Corporation. It was not possible to calculate normal value on the basis of either comparable prices actually paid or payable in normal commercial transactions concerning the like product intended for the Japanese domestic market or prices charged for exports to a third country, since Asahi Corporation made no such sales of significance. The Commission therefore constructed normal value by adding a reasonable profit margin to the cost of production, in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88.
- (12) Since normal value had to be constructed, it seemed logical to make use in the calculation of the production costs for a one-year reference period from 1 March 1989 to 28 February 1990. This period was chosen as being more representative than the six-month periods preceding each import operation, which could have been used had normal value been calculated on the basis of prices on Japan's domestic market.
- (13) The profit margin for addition to the cost of production for sales to on OEM (original equipment manufacturer), such as Analog and Digital Systeme GmbH, was set at the same level as that calculated during the investigation concerning the initial applications for refund of duties, the subject of Decision 91/302/EEC. A reasonable level for that margin was calculated using data on the usual profit on OEM sales of compact disc players, gathered during an on-the-spot check on Asahi Corporation premises.
- (14) The ex-factory normal value and export prices were always calculated in a way which permitted fair comparison. Anything likely to distort the calculation, such as adjustments for costs related to certain kinds of equipment intended for the manufacture of compact disc players, was discounted.
- (15) The Commission considered that the information supplied by the applicant and the exporter regarding the normal value and export prices of the different models was sufficient for it to calculate the actual dumping margin. Dumping margins were calculated by comparing the normal value of each model with the export price of each consignment from Asahi Corporation released for free circulation in the Community during the period under consideration.
- (16) The actual dumping margin was found to be lower than that used to determine the rate of duty levied. While Asahi Corporation was found to have dumped exports, it had done so at a level lower than the highest dumping margin established in Regulation (EEC) No 112/90. The Commission found that the margin of dumping on the imports from Asahi was 3,8 % for those covered by the two applications under consideration.

E. AMOUNT TO BE REIMBURSED

- (17) The amount to be reimbursed to the firm Analog and Digital Systeme GmbH, representing the difference between the rate of duty collected and the actual dumping margin, is 26,8 % (32 % - 5,2 %)

⁽¹⁾ OJ No L 151, 15. 6. 1991, p. 86.

of the value used by the relevant authorities to calculate the level of anti-dumping duty paid in the case of the imports covered by the application submitted on 6 February 1991 and 28,2 % (32 % - 3,8 %) for those covered by the other applications, submitted on 2 April and 13 May 1991,

HAS ADOPTED THIS DECISION:

Article 1

The applications for the refund of anti-dumping duties submitted by Analog and Digital Systeme GmbH are granted for 26,8 % of the value used by the relevant authorities to calculate the level of anti-dumping duty paid in the case of the imports covered by the application submitted on 6 February 1991 and 28,2 % for those covered by the applications submitted on 2 April and 13 May 1991.

Article 2

The amount referred to in Article 1 shall be refunded by the German authorities.

Article 3

This Decision is addressed to the Federal Republic of Germany and Analog und Digital Systeme GmbH, Am Auernberg 12, D-6242 Kronberg am Taunus, Germany.

Done at Brussels, 26 September 1991.

For the Commission

Frans ANDRIESEN

Vize-President

COMMISSION DECISION

of 27 September 1991

calling upon the Kingdom of Spain to postpone the adoption of a draft regulation in respect of the labelling of confectionery containing polyalcohols

(Only the Spanish text is authentic)

(91/551/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer⁽¹⁾, as last amended by Directive 91/72/EEC⁽²⁾, and in particular Articles 16 and 17 thereof,

Whereas, pursuant to the procedure laid down in Article 16 (2) of Directive 79/112/EEC, the Spanish authorities notified the Commission of their intention to adopt a draft hygiene regulation relating to the manufacture, distribution and marketing of sweets, chewing gum and other types of confectionery;

Whereas the draft regulation includes labelling rules requiring that the packaging of products containing polyalcohols carry warnings to that effect and that this category of additives be given its specific name in the list of ingredients, with a consequent ban on the use of the specific EEC number;

Whereas, in accordance with Article 16 (2) of Directive 79/112/EEC, the Commission has consulted the other Member States within the Standing Committee on Foodstuffs;

Whereas it has been generally acknowledged that the warnings which the Spanish authorities wish to make mandatory are necessary to ensure proper consumer information;

Whereas, however, for Spain to apply such a measure unilaterally would be bound to hamper intra-Community trade considerably;

Whereas, moreover, the provision of the Spanish draft regulation which bans the use of the EEC number contravenes the second indent of Article 6 (5) (b) and Article 14 of Directive 79/112/EEC; whereas a Community derogation does not appear justified;

Whereas, as regards the warnings, the most satisfactory solution would be to draw up Community provisions;

Whereas any national initiative in this area should therefore be postponed for a suitable period;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DECISION:

Article 1

1. The Kingdom of Spain shall, for a period of 12 months from the notification of this Decision, postpone the adoption of its draft regulation in respect of the measures requiring certain warnings to be given on the labelling of sweets, chewing gum and other types of confectionery containing polyalcohols.

2. Any national regulation adopted by the Kingdom of Spain after the abovementioned 12 month period and in the absence of relevant Community provisions may not ban the use of the EEC number to designate polyalcohols in the

(¹) OJ No L 33, 8. 2. 1979, p. 1.

(²) OJ No L 42, 15. 2. 1991, p. 27.

list of ingredients of products containing that category of additives.

Done at Brussels, 27 September 1991.

Article 2

This Decision is addressed to the Kingdom of Spain.

For the Commission

Martin BANGEMANN

Vice-President

COMMISSION DECISION

of 27 September 1991

establishing the status of Denmark as regards Newcastle disease

(91/552/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs ⁽¹⁾, and in particular Article 12 (2) thereof,

Whereas no outbreaks of Newcastle disease have been detected and vaccination against Newcastle disease in poultry has been prohibited for over a year in Denmark;

Whereas breeding flocks in Denmark have been monitored at least once a year for the presence of Newcastle disease; whereas the holdings contain no poultry which have been vaccinated against Newcastle disease;

Whereas in the light of the Newcastle disease situation it is not yet appropriate to fix the status of other Member States;

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

Denmark fulfils the criteria fixed by Article 12 (2) of Directive 90/539/EEC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 27 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 303, 31. 10. 1991, p. 6.

COMMISSION DECISION

of 4 October 1991

approving the French programme of agricultural income aid for farmers in general

(91/553/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 768/89 of 21 March 1989 establishing a system of transitional aids to agricultural income⁽¹⁾, and in particular Article 7 (3) thereof,

Having regard to Commission Regulation (EEC) No 3813/89 of 19 December 1989 laying down detailed rules for the application of transitional aids to agricultural income⁽²⁾, as last amended by Regulation (EEC) No 1110/91⁽³⁾, and in particular Article 10 (3) thereof,

Whereas France has notified the Commission of its intention to introduce a programme of agricultural income aid for farmers in general; whereas the Commission approved this programme by Decision 96/606/EEC⁽⁴⁾;

Whereas on 15 July 1991 France notified the Commission that the actual demand for support under the programme was higher than initially anticipated; whereas the increase provided for in the total amount of aid remains within the limits set by Community law; whereas, therefore, it seems appropriate to authorize the envisaged change and the increase in the sums eligible for Community finance which the authorization implies;

Whereas at the same time France notified certain adjustments to the rules of application of the programme;

Whereas these increase and adjustments do not change the substance of the approval Decision 90/606/EEC; whereas

for reasons of legal clarity it seems nevertheless appropriate to take a new approval decision;

Whereas on 19 September 1991, the Management Committee for Agricultural Income Aids was consulted on the measures provided for in this Decision;

Whereas on 19 September 1991, the Management Committee was consulted on the maximum amounts that may be charged annually to the Community budget as a result of adopting this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The programme of agricultural income aid notified to the Commission by France on 12 June 1990, as amended by the communication of 15 July 1991, is hereby approved.

Article 2

The maximum amounts that may be charged annually to the Community budget as a result of this Decision shall be as follows:

(in million ECU)	
1991	2,5
1992	16,3
1993	23,4
1994	19,4
1995	15,4
1996	10,9
1997	3,8

Article 3

Commission Decision 90/606/EEC is hereby revoked. However, any request for aid submitted to the French authorities prior to notification of this Decision may be

(1) OJ No L 84, 29. 3. 1989, p. 8.

(2) OJ No L 371, 20. 12. 1989, p. 17.

(3) OJ No L 110, 1. 5. 1991, p. 72.

(4) OJ No L 320, 20. 11. 1990, p. 26.

examined under the conditions provided for in the
programme notified on 12 June 1990.

Done at Brussels, 4 October 1991.

Article 4

This Decision is addressed to the Member States.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION DECISION

of 7 October 1991

amending the Seventh Council Decision 85/355/EEC on the equivalence of field inspections carried out in third countries on seed-producing crops and the Seventh Council Decision 85/356/EEC on the equivalence of seed produced in third countries

(91/554/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, as last amended by Directive 90/654/EEC ⁽²⁾,

Having regard to the Seventh Council Decision 85/355/EEC of 27 June 1985 on the equivalence of field inspections carried out in third countries on seed-producing crops ⁽³⁾, as last amended by Directive 90/654/EEC, and in particular in Article 2 thereof,

Having regard to the Seventh Council Decision 85/356/EEC of 27 June 1985 on the equivalence of seed produced in third countries ⁽⁴⁾, as last amended by Directive 90/654/EEC, and in particular Article 4 thereof,

Whereas, in Decision 85/355/EEC, the Council determined that field inspections carried out in certain third countries on seed-producing crops of certain species satisfy the conditions laid down in the Community Directives;

Whereas, in Decision 85/356/EEC, the Council determined that seed of certain species produced in certain third countries is equivalent to corresponding seed produced in the Community;

Whereas for certain species these determinations include New Zealand;

Whereas an examination of the rules of New Zealand and of the manner in which they are applied has shown that, in respect of California bluebell, the prescribed field inspections satisfy the conditions laid down in Annex I to Directive 66/401/EEC and the conditions governing seed harvested and controlled there afford the same assurances, as regards the seed's characteristics, identity, examination,

marking and control as do the conditions applicable to such seed harvested and controlled within the Community;

Whereas the existing equivalence for New Zealand should therefore be extended accordingly;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

In the table in Part I (2) of the Annex to Decision 85/355/EEC the species '*Phacelia tanacetifolia* Benth.' is hereby added after the species '*Medicago sativa*' in column 3 of the entry relating to New Zealand.

Article 2

In the table in Part I (2) of the Annex to Decision 85/356/EEC the species '*Phacelia tanacetifolia* Benth.' is hereby added after the species '*Medicago sativa*' in column 3 of the entry relating to New Zealand.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 7 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 125, 11. 7. 1966, p. 2 298/66.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 48.

⁽³⁾ OJ No L 195, 26. 7. 1985, p. 1.

⁽⁴⁾ OJ No L 195, 26. 7. 1985, p. 20.