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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1473/93

of 14 June 1993

imposing a definitive anti-dumping duty on imports of magnesium oxide originating in the People's Republic of China

THE COUNCIL 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 Economic Community⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal from the Commission, submitted after consultation within the Advisory Committee as provided under the above Regulation,

Whereas :

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EEC) No 2800/92⁽²⁾, (hereafter referred to as the 'Provisional Regulation' imposed a provisional anti-dumping duty on imports of magnesium oxide (commonly called 'caustic magnesite') originating in the People's Republic of China and falling within the CN code ex 2519 90 90.

B. SUBSEQUENT PROCEDURE

- (2) Following the imposition of the provisional anti-dumping duty, five Chinese exporters and some independent importers requested and were granted an opportunity to be heard by the Commission. They also made written submissions making known their views on the findings as did other independent importers, some end users and the Chinese authorities.
- (3) Parties were also informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive duties and the definitive collection of amounts secured by way of a provisional duty. They were also granted a period within which they could

make representations subsequent to these disclosures.

- (4) The oral and written comments submitted by the parties were considered and, where appropriate, the Commission's findings were modified to take account of them.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

- (5) Certain Chinese exporters, independent importers and end-users have repeated the argument that caustic magnesite originating in the Community and elsewhere is not a like product to that originating in the People's Republic of China. In this respect, the Chinese exporters proposed that an independent technical expert be appointed by the Commission to determine the question of whether or not Chinese magnesite is a 'like product' to any other caustic magnesite, in terms of the quality of its mineral deposit, the extracting and processing methods, its chemical and physical characteristics and the application of the final product.
- (6) The Commission accepts that an independent expert may provide factual information as to any such differences between Chinese magnesite and that from other sources. The existence of these differences is, however, accepted by the Community Institutions. It is also not contested by any party that these differences do not alter the fact that the basic physical and chemical characteristics of all types of magnesite are identical. Only if these basic physical and technical characteristics were to be different, could it be considered that the different types of magnesite are not similar products. The fact that caustic magnesite from whatever source can be used interchangeably by end users confirms that it is a like product. It was thus not considered necessary to appoint such an expert for these reasons and for those given in recitals 10 and 11 of the Provisional Regulation.

The Council confirms these findings and conclusions.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 282, 26. 9. 1992, p. 23.

D. DUMPING

(a) Reference country

- (7) In its Provisional Regulation, the Commission established that Turkey was an appropriate reference country for the determination of normal value for the People's Republic of China. After the imposition of provisional duties some of the exporters objected to the use of Turkey as a reference country and proposed Czechoslovakia as being more appropriate because of the nature of its reserves, its processing techniques, and the range of the MgO (magnesium oxide) grades. They argued that the former Czechoslovakia, while being a market economy, has an economic structure closer to that of China.

The Commission recalls however that, in conformity with Regulation (EEC) No 1765/82⁽¹⁾, the former Czechoslovakia cannot be regarded as a market economy during the investigation period of July 1990 to June 1991. According to the provisions of Article 2 (5) of Regulation (EEC) No 2423/88, prices and costs in such a non-market economy cannot be used as a basis for establishing normal value.

When selecting a market economy country in which normal value can be established, the Commission takes several factors into account. It considers the access to raw materials, the representativity of the market in relation to the quantities exported by the exporting country and whether cost and prices of the product in question in that country are formed by competitive market forces.

After a full examination of conditions in Turkey in the light of the above considerations, the Commission concluded, as in recital 15 of the provisional regulation, that Turkey is an appropriate reference country.

The Council confirms these findings and conclusions.

(b) Normal value

- (8) With regard to the price situation in Turkey, the Commission found that the high proportion of sales between related companies made it inappropriate to base normal value on selling prices. However, it was found, as shown in recital 16 of the Provisional Regulation, that the costs of production of the Turkish producer are determined through a process of competitive tendering. Costs of produc-

tion are thus established in the ordinary course of trade and form an appropriate basis for normal value.

- (9) The Chinese exporters argued, after the imposition of provisional duties, that the normal value as constructed for each MgO grade and as adjusted to take account of differences in conditions between China and Turkey, did not fully reflect the natural advantages of China, where they claimed magnesite can be extracted and processed more easily than in Turkey.

The Commission, to some extent, agrees with the argument. As far as the differences in the mining and processing methods are concerned, the Commission accepts that for Chinese produced caustic magnesite, due to the natural advantages, some cost factors do not exist in China. In the provisional regulation normal value was adjusted to allow for beneficiation and sorting processes found in Turkey but not found in China. The Commission now considers that an additional allowance should be made for the ease of access to raw materials in China in comparison with that of Turkey. Therefore, taking into account the actual ore/spoil ratio found in Turkey and the level of adjustment suggested by the Chinese exporters, the costs of extraction have been reduced by 20 % as found in Turkey.

On this basis, the normal value as established for the Turkish producer is considered to reflect the natural advantages in China. The Chinese exporters argued that a further allowance should be made in the light of the claimed proximity of the open cast mines to the kilns in China. In this respect it has to be recalled that only differences which stem from the different natural advantages of the product in China and in Turkey can justify adjustments to be made to the normal value based on the situation in Turkey. The location of kilns, however, is not a natural advantage of the Chinese magnesite industry but is a result of commercial decisions made by the production organization concerned. In any event the distance between mine and kilns varies constantly as the mine and its resources are exploited.

- (10) The normal value thus established is confirmed by the Council.

(c) Export Price

- (11) The Council confirms the method used to establish export prices set out in recital 19 of the Provisional Regulation as no substantial comments in this respect were made by interested parties.

⁽¹⁾ OJ No L 195, 5. 7. 1982, p. 1.

E. COMPARISON AND DUMPING MARGIN

- (12) The Chinese exporters argued that Chinese producers use simple, low cost, coke burning, shaft kilns and that an adjustment of 10 % should be made to reflect lower burning costs in China. The Commission established, however, that the Turkish producer also uses shaft kilns. By contrast the Commission accepted that an allowance should be made to reflect the higher cost of the fuel oil used by the Turkish producer and costs of production have thus been reduced by 3 %. No other observation having been raised by any other party, the findings and conclusions in recital 20 of the Provisional Regulation are hereby confirmed by the Council.

The final examination of the facts showed the existence of dumping, the margin of dumping being equal to the amount by which the normal value exceeds the price for export to the Community. This margin is equal to ECU 24 per tonne, if calculated as a percentage of the weighted average cif value of the imports concerned and expressed as a value in ecus.

- (13) For the purpose of the provisional findings the Commission has established a single dumping margin for all Chinese exporters. The cooperating Chinese exporters contested the single dumping margin and argued that the Commission should calculate a dumping margin for each cooperating exporter.

The Commission recalls however that, with regard to exports from a non-market economy, individual treatment must remain a strict exception to be applied solely in cases where the producer concerned has provided evidence that it is free to establish export prices without the influence of the State authorities. The State, through its control, could modify the pattern of production and trade, so as to take advantage of the lowest dumping margin and thus undermine the effectiveness of any measures. In this respect, as explained in recital 22 of the Provisional Regulation, these exporters could not demonstrate that they are independent of any State influence and are free in fixing their export prices. Therefore only one dumping margin for all Chinese exports has been established. The Council confirms the above findings and conclusions.

F. INJURY

- (14) The Commission concluded in its Provisional Regulation (see recitals 23 to 33) that the Community industry had suffered material injury as a

result of the dumped imports of caustic magnesite originating in the People's Republic of China. Imports of the product concerned from the People's Republic of China increased from 72 000 tonnes in 1988 to over 120 000 tonnes during the investigation period of 1 July 1990 to 30 June 1991, the market share of the Community producers decreased in a growing market and their prices were significantly depressed. All sales by Community producers were loss making or made at a low profit level. In this respect no new arguments were put forward by interested parties. The Council, therefore, confirms the Commission findings and conclusions as in recital 33 of the Provisional Regulation.

- (15) The Chinese exporters argued that there can be no injury for grades above 91 % MgO as the Community producer of these grades has, allegedly, continually increased sales, production volume and capacity utilization.

As established in recital 35 of the Provisional Regulation, the Commission did not find, during its investigation, that this or any other Community producer had increased sales, production volume and capacity utilization for these grades. In addition, this argument ignores the fact that according to Article 4 (4) of Regulation (EEC) No 2423/88 injury has to be established in relation to the Community production of the like product, which consists of all types and grades of magnesite which are largely interchangeable. If sales in the Community by the Community producers of certain grades are not affected by dumped imports in an identical way to other grades, this has to be seen in the global context of the Community industry's performance on the Community market for the like product as a whole, which means all types and grades. This argument has, therefore, to be rejected. The Council confirms the above findings and conclusions.

G. CHAIN OF CAUSATION

- (16) As set out in recitals 34 and 35 of the provisional regulation, the Commission found that the Community industry had suffered material injury through the effect of dumped imports within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88. However, after the imposition of provisional measures, the Chinese exporters and some importers argued that the rising costs of production incurred by Community producers indicated that injury was self-inflicted and not attributable to imports from China. They also argued that injury had been caused by imports from North Korea.

- (17) With regard to the first argument, the Commission did not find that Community producers' costs had risen significantly between 1988 and the investigation period. The worsening financial position of the Community industry was the result of the downward pressure on prices from dumped imports from China while costs remained stable. The Commission, therefore, cannot accept that there was any self-inflicted injury on the part of the Community industry due to rising costs of production and this argument, therefore, has to be rejected.
- (18) With regard to imports from North Korea the Commission notes that China is by far the largest source of imports of caustic magnesite into the Community. North Korea accounted for 8 % of imports of caustic magnesite into the Community during the reference period, whereas China accounted for 54 % of the imports. Accordingly, while it cannot be excluded that factors other than dumped imports from China also had negative effects on the Community industry, it must be concluded that the very substantial expansion in volume and the low prices of the dumped Chinese exports have been responsible for the fall in market share and deteriorating financial position of the Community producers. These exports taken in isolation, must, therefore, be considered to have caused material injury to the Community industry.
- (19) The pulp and paper producers and liquid fertiliser producers argued that imports from China used by them had not caused injury to the Community producers as the Community producers did not offer for sale caustic magnesite with the appropriate chemical profile.

In this respect, the Commission recalls that all the products imported and the magnesite produced by the Community industry are like products having the same basic and identical physical and chemical characteristics and the same applications. The Commission found in addition, that the Community industry is able to provide all types of magnesite, including those which meet the requirements of the abovementioned users. The fact that, in this specific case, the Community industry could not sell these types of magnesite to these users, while the Chinese exporters could, due to their low prices, is a further indication that the Community industry was injured by the dumped imports from China.

The Council confirms the above findings and conclusions.

H. DUTY

- (20) As far as the amount of the duty is concerned, the Commission established in recital 45 of the Provisi-

onal Regulation that only a duty equal to the full dumping margin (as established in recital 12) which would bring the Chinese prices up to the normal value, is sufficient to remove the injury, caused by dumping, experienced by the Community industry. No arguments concerning this duty amount were put forward, subsequent to the imposition of the provisional duty, the Council, therefore, confirms the Commission's findings and conclusions in this respect.

As far as the form of the duty is concerned, the Commission considers that the structure of a State-controlled economy gives the Chinese exporters considerable room for manoeuvre to further decrease their export prices and such falls in price by Chinese exporters have indeed taken place since 1988. The magnesite market is very sensitive to price instability thus the form of the duty should be such as to prevent further price decreases by the Chinese exporters. Therefore, neither a fixed amount of duty nor an *ad valorem* duty seem to be appropriate.

In these circumstances it is considered that a minimum price at which the Chinese magnesite should be sold on the Community market should be established. This minimum price has been calculated on the basis of the weighted average normal value of caustic magnesite as established in recital 9 and as adjusted to cif Community frontier value. This minimum price in ECU 112 per tonne for all grades. Consequently, the duty should be equal to the difference between this minimum price and the net free-at-Community-frontier price before customs clearance. This finding is confirmed by the Council.

I. COMMUNITY INTEREST

- (21) In assessing the Community interest, two basic elements have to be taken into account. The first is that to prevent distortions of competition arising from unfair commercial practices and thus to re-establish open and fair competition on the Community market is the purpose of anti-dumping measures and is fundamentally in the general Community interest. The second is that, in the particular circumstances of the present proceeding, to refrain from re-establishing a fair market situation would endanger the future existence of the caustic magnesite industry since the Community industry is at present unable to generate the profits necessary to continue trading. The Community caustic magnesite industry would cease to be a source of technical expertise, employment and investment, see recital 43 of the Provisional Regulation.

- (22) Certain importers and end users argued that any increase in costs for end users in the pulp and paper industry would seriously affect their ability to compete with other manufacturers outside the Community.

The Commission accepts that these industries are currently facing a difficult trading situation both within and outside the Community which could be exacerbated by increases in the price of caustic magnesite. The Commission considers, however, that the impact of the duty in the form of a minimum price per tonne, as established in recital 20 above, will be such as to enable industrial users, such as those in the pulp and paper industry, to buy caustic magnesite at prices which are not significantly higher than those of their competitors outside the Community and thus maintain their competitive position. In addition, in general, while there might be a short term price advantage to end users if no duty is imposed, to refrain from establishing fair competition on the Community market would, in the longer term, lead to less competition and higher prices.

- (23) Some importers argued that there was no need to protect the Community industry in respect of supplies of caustic magnesite which it cannot deliver. They suggest that the current capacity of the Community industry is not sufficient to supply the entire Community demand.

While it is true that production in the Community is, at present, insufficient to meet demand for the product concerned, the Commission found that the Community industry is currently operating below a reasonable capacity utilization level and has large reserves available. It was only the low-priced dumped imports from China which prevented the Community industry from utilizing existing capacity and expanding production facilities. In addition, this argument is based on a mistaken view of the effects of anti-dumping duties. Even with the application of duties, Community consumers will still be able to buy Chinese magnesite at competitive prices. Indeed, as in this proceeding, where the duty is equal to the dumping margin, but lower than the amount required to fully remove the injury, it is only the unfair element of the exporters' price advantage which will be eliminated. In such a situation, the exporters can fully compete on the basis of their true comparative advantage. There are also many other non-Community suppliers of caustic magnesite on the Community

market. The Commission sees no danger of any shortage of supply.

- (24) The Chinese exporters repeated the argument that it was not in the Community interest to impose ineffective measures in that anti-dumping duties imposed on Chinese caustic magnesite would result in a large increase in low priced imports from North Korea. As indicated in recital 42 of the provisional regulation, the Commission would be made aware of Chinese imports being replaced to a large extent by allegedly dumped imports from North Korea and in such circumstances appropriate action would be considered.
- (25) For the reasons given above and in recitals 41 to 43 in the provisional regulation, the Commission concludes that the Community interest calls for intervention in this case. The Council confirms the above findings and conclusion.

J. COLLECTION OF PROVISIONAL DUTY

- (26) The Council considers that it is not appropriate, in view of the change in the form of the duty, in this particular case, to definitively collect the provisional anti-dumping duty,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of magnesium oxide falling within CN code ex 2519 90 90 (Taric code 2519 90 90 10) originating in the People's Republic of China.
2. The amount of the duty shall be the difference between ECU 112 per tonne and the net, free-at-Community-frontier price before customs clearance, if that price is lower.
3. The provisions in force with regard to customs duties shall apply to the said duty.

Article 2

This Regulation shall enter into force on the 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 Luxembourg, 14 June 1993.

For the Council

The President

J. TRØJBORG

COMMISSION REGULATION (EEC) No 1474/93

of 16 June 1993

fixing the import levies on cereals and on wheat or rye flour, groats and meal

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽²⁾, and in particular Article 13 (5) 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⁾, and in particular Article 5 thereof,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 762/93 ⁽⁴⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 15 June

1993, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 762/93 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 79, 1. 4. 1993, p. 11.

ANNEX

to the Commission Regulation of 16 June 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)	
CN code	Third countries (*)
0709 90 60	142,06 ⁽²⁾ ⁽³⁾
0712 90 19	142,06 ⁽²⁾ ⁽³⁾
1001 10 00	179,45 ⁽¹⁾ ⁽³⁾
1001 90 91	154,55
1001 90 99	154,55 ⁽²⁾
1002 00 00	154,31 ⁽⁴⁾
1003 00 10	140,51
1003 00 20	140,51
1003 00 80	140,51 ⁽²⁾
1004 00 00	116,95
1005 10 90	142,06 ⁽²⁾ ⁽³⁾
1005 90 00	142,06 ⁽²⁾ ⁽³⁾
1007 00 90	143,41 ⁽⁴⁾
1008 10 00	53,89 ⁽²⁾
1008 20 00	106,03 ⁽⁴⁾
1008 30 00	58,24 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	58,24
1101 00 00	228,97 ⁽²⁾
1102 10 00	228,64
1103 11 30	290,66
1103 11 50	290,66
1103 11 90	245,64

(¹) Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(²) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

(³) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

(⁴) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

(⁵) Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(⁶) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

(⁷) The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

(⁸) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

(⁹) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1475/93

of 16 June 1993

fixing the premiums to be added to the import levies on cereals, flour and malt

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽²⁾, and in particular Article 15 (6) 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⁾, and in particular Article 5 thereof,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 3874/92 ⁽⁴⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 15 June

1993, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 390, 31. 12. 1992, p. 121.

ANNEX

to the Commission Regulation of 16 June 1993 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	2,07	2,07	2,07
1003 00 20	0	2,07	2,07	2,07
1003 00 80	0	2,07	2,07	2,07
1004 00 00	0	1,39	1,39	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	3,68	3,68	3,68	3,68
1107 10 99	0	2,75	2,75	2,75	2,75
1107 20 00	0	3,21	3,21	3,21	3,21

COMMISSION REGULATION (EEC) No 1476/93

of 15 June 1993

establishing unit values for the determination of the customs value of certain perishable goods

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

Having regard to Commission Regulation (EEC) No 1577/81 of 12 June 1981 establishing a system of simplified procedures for the determination of the customs value of certain perishable goods ⁽¹⁾, as last amended by Regulation (EEC) No 3334/90 ⁽²⁾, and in particular Article 1 thereof,

Whereas Article 1 of Regulation (EEC) No 1577/81 provides that the Commission shall periodically establish unit values for the products referred to in the classification in the Annex;

Whereas the result of applying the rules and criteria laid down in that same Regulation to the elements communi-

cated to the Commission in accordance with Article 1 (2) of that Regulation is that the unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 1 (1) of Regulation (EEC) No 1577/81 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 June 1993.

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

Done at Brussels, 15 June 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 154, 13. 6. 1981, p. 26.

⁽²⁾ OJ No L 321, 21. 11. 1990, p. 6.

ANNEX

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
1.10	0701 90 51 0701 90 59	New potatoes	24,87	999	185,83	48,64	163,61	6632	19,93	44 435	54,55	19,50
1.20	0702 00 10 0702 00 90	Tomatoes	57,49	2311	429,60	112,44	378,22	15332	46,08	102 723	126,12	45,09
1.30	0703 10 19	Onions (other than seed)	34,10	1371	254,86	66,71	224,38	9095	27,34	60 941	74,82	26,75
1.40	0703 20 00	Garlic	209,71	8431	1 567,02	410,16	1 379,62	55 925	168,10	374 691	460,03	164,49
1.50	ex 0703 90 00	Leeks	27,80	1117	209,04	54,33	183,17	7384	22,31	50 899	61,05	21,85
1.60	ex 0704 10 10 ex 0704 10 90	Cauliflowers	57,81	2331	438,81	113,34	385,48	15 133	43,14	104 614	127,38	45,06
1.70	0704 20 00	Brussels sprouts	53,72	2267	423,88	110,06	374,08	11 735	41,29	82 719	124,09	37,72
1.80	0704 90 10	White cabbages and red cabbages	31,38	1265	239,40	61,47	210,09	8 126	23,42	54 525	69,15	25,05
1.90	ex 0704 90 90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> var. <i>italica</i>)	123,37	4943	921,62	240,50	812,12	32 641	98,56	221 730	269,86	96,64
1.100	ex 0704 90 90	Chinese cabbage	20,94	839	156,44	40,82	137,86	5 541	16,73	37 639	45,80	16,40
1.110	0705 11 10 0705 11 90	Cabbage lettuce (head lettuce)	67,35	2706	506,31	131,61	443,65	17 886	54,03	123 279	147,87	52,93
1.120	ex 0705 29 00	Endives	21,82	877	162,70	42,58	143,89	5 690	17,51	39 262	47,92	17,72
1.130	ex 0706 10 00	Carrots	49,76	2000	371,88	97,34	327,40	13 272	39,89	88 920	109,17	39,03
1.140	ex 0706 90 90	Radishes	67,01	2692	503,74	130,94	441,40	17 795	53,76	122 654	147,12	52,67
1.150	0707 00 11 0707 00 19	Cucumbers	41,14	1 654	307,45	80,47	270,68	10 972	32,98	73 514	90,25	32,27
1.160	0708 10 10 0708 10 90	Peas (<i>Pisum sativum</i>)	313,30	12 595	2 341,12	612,78	2 061,14	83 552	251,15	559 786	687,28	245,75
1.170		Beans :										
1.170.1	0708 20 10 0708 20 90	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.)	97,45	3918	728,23	190,61	641,14	25 990	78,12	174 129	213,78	76,44
1.170.2	0708 20 10 0708 20 90	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i>)	90,78	3 649	678,37	177,56	597,24	24 210	72,77	162 205	199,15	71,21
1.180	ex 0708 90 00	Broad beans	92,83	3 894	734,40	189,09	645,42	21 793	71,04	142 837	212,96	66,61
1.190	0709 10 00	Globe artichokes	136,32	5 478	1 024,80	266,38	897,97	36 202	109,37	249 524	299,31	107,15
1.200		Asparagus :										
1.200.1	ex 0709 20 00	— green	332,87	13 382	2 487,34	651,06	2 189,88	88 771	266,84	594 750	730,21	261,10
1.200.2	ex 0709 20 00	— other	526,03	21 024	3 913,81	1 020,70	3 455,29	137 215	418,45	976 186	1 149,14	431,29
1.210	0709 30 00	Aubergines (egg-plants)	96,29	3 858	719,34	187,71	633,87	25 477	76,93	173 064	210,63	75,43
1.220	ex 0709 40 00	Ribbed celery (<i>Apium graveolens</i> var. <i>dulce</i>)	89,30	3 590	667,30	174,66	587,49	23 815	71,58	159 558	195,90	70,05
1.230	0709 51 30	Chantarelles	1419,0	57 401	10 720,9	2 789,11	9 463,39	362 312	1 059,4	2 384 427	3 138,97	1 157,8
1.240	0709 60 10	Sweet peppers	119,72	4 813	894,58	234,15	787,59	31 926	95,97	213 903	262,62	93,90
1.250	0709 90 50	Fennel	73,55	2 966	558,22	144,18	490,38	19 251	54,88	133 083	162,05	57,33
1.260	0709 90 70	Courgettes	49,65	1 995	373,28	97,03	327,09	13 186	39,83	90 889	109,02	39,02
1.270	ex 0714 20 10	Sweet potatoes, whole, fresh (intended for human consumption)	72,40	2 901	540,88	141,14	476,62	19 156	57,84	130 129	158,37	56,71
2.10	ex 0802 40 00	Chestnuts (<i>Castanea</i> spp.), fresh	83,78	3 378	639,04	164,08	560,82	21 691	62,54	145 547	184,60	66,87
2.20	ex 0803 00 10	Bananas (other than plantains), fresh	34,81	1 399	260,16	68,09	229,04	9 284	27,91	62 207	76,37	27,31
2.30	ex 0804 30 00	Pineapples, fresh	42,63	1 713	318,54	83,38	280,45	11 368	34,17	76 168	93,51	33,43
2.40	ex 0804 40 10 ex 0804 40 90	Avocados, fresh	121,75	4 894	909,76	238,12	800,96	32 468	97,59	217 533	267,08	95,50

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.50	ex 0804 50 00	Guavas and mangoes, fresh	100,22	4029	748,91	196,02	659,35	26728	80,34	179 073	219,86	78,61
2.60		Sweet oranges, fresh :										
2.60.1	0805 10 11 0805 10 21 0805 10 31 0805 10 41	— Sanguines and semi-sanguines	32,48	1 305	244,16	63,46	213,94	8 625	26,05	59 450	71,31	25,52
2.60.2	0805 10 15 0805 10 25 0805 10 35 0805 10 45	— Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	32,34	1 300	241,70	63,26	212,79	8 626	25,92	57 793	70,95	25,37
2.60.3	0805 10 19 0805 10 29 0805 10 39 0805 10 49	— Others	23,55	944	176,29	45,90	155,16	6 258	18,81	43 923	51,58	18,59
2.70		Mandarins (including tangerines and satsumas), fresh ; clementines, wilkings and similar citrus hybrids, fresh :										
2.70.1	ex 0805 20 10	— Clementines	29,80	1 198	222,70	58,29	196,07	7 948	23,89	53 251	65,37	23,37
2.70.2	ex 0805 20 30	— Monreales and Satsumas	47,99	1 929	358,64	93,87	315,75	12 799	38,47	85 756	105,28	37,64
2.70.3	ex 0805 20 50	— Mandarins and wilkings	71,68	2 880	538,84	140,06	472,16	19 035	57,50	131 201	157,38	56,34
2.70.4	ex 0805 20 70 ex 0805 20 90	— Tangerines and others	36,60	1 471	273,52	71,59	240,81	9 761	29,34	65 403	80,29	28,71
2.80	ex 0805 30 10	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>), fresh	43,55	1 751	325,45	85,18	286,53	11 615	34,91	77 819	95,54	34,16
2.85	ex 0805 30 90	Limes (<i>Citrus aurantifolia</i>), fresh	144,32	5 802	1 078,40	282,27	949,44	38 487	115,69	257 858	316,59	113,20
2.90		Grapefruit, fresh :										
2.90.1	ex 0805 40 00	— white	44,13	1 774	329,81	86,33	290,37	11 770	35,38	78 863	96,82	34,62
2.90.2	ex 0805 40 00	— pink	53,61	2 155	400,61	104,86	352,70	14 297	42,97	95 791	117,61	42,05
2.100	0806 10 11 0806 10 15 0806 10 19	Table grapes	127,94	5 143	956,01	250,23	841,68	34 119	102,56	228 592	280,65	100,35
2.110	0807 10 10	Water-melons	23,67	951	176,92	46,30	155,76	6 314	18,98	42 303	51,93	18,57
2.120		Melons (other than water-melons) :										
2.120.1	ex 0807 10 90	— Amarillo, Cuper, Honey dew (including Cantalene), Onteniente, Piel de Sapo (including Verde Liso), Rochet, Tendral, Futuro	32,87	1 321	245,63	64,29	216,25	8 766	26,35	58 733	72,11	25,78
2.120.2	ex 0807 10 90	— other	66,10	2 657	493,94	129,28	434,87	17 628	52,98	118 106	145,00	51,85
2.130	0808 10 91 0808 10 93 0808 10 99	Apples	57,67	2 318	430,95	112,80	379,41	15 380	46,23	103 045	126,51	45,23
2.140		Pears										
2.140.1	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Pears — Nashi (<i>Pyrus pyrifolia</i>)	92,98	3 738	694,82	181,87	611,73	24 797	74,54	166 140	203,98	72,93
2.140.2	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Other	59,43	2 389	444,14	116,25	391,02	15 851	47,64	106 199	130,38	46,62
2.150	0809 10 00	Apricots	279,95	11 255	2 091,91	547,56	1 841,74	74 659	224,42	500 199	614,12	219,59
2.160	0809 20 10 0809 20 90	Cherries	166,43	6 691	1 243,66	325,53	1 094,93	44 385	133,42	297 373	365,10	130,55
2.170	ex 0809 30 00	Peaches	86,89	3 493	649,26	169,94	571,62	23 171	69,65	155 246	190,60	68,15

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.180	ex 0809 30 00	Nectarines	139,77	5 619	1 044,41	273,37	919,51	37 274	112,04	249 729	306,61	109,63
2.190	0809 40 11 0809 40 19	Plums	165,80	6 665	1 238,90	324,28	1 090,74	44 215	132,90	296 234	363,70	130,05
2.200	0810 10 10 0810 10 90	Strawberries	155,21	6 218	1 159,45	302,56	1 021,70	41 065	124,00	278 950	339,49	121,58
2.205	0810 20 10	Raspberries	1 057,1	42 483	7 946,97	2 065,75	6 963,49	280 738	848,14	1 934 968	2 321,08	830,90
2.210	0810 40 30	Fruit of the species <i>Vaccinium myrtillus</i>	161,42	6 779	1 268,11	329,16	1 111,99	40 501	123,65	249 172	371,08	116,29
2.220	0810 90 10	Kiwi fruit (<i>Actinidia chinensis</i> Planch.)	120,05	4 826	897,07	234,81	789,79	32 016	96,23	214 500	263,35	94,17
2.230	ex 0810 90 80	Pomegranates	102,73	4 108	767,46	199,44	680,79	27 113	82,31	193 169	224,15	81,76
2.240	ex 0810 90 80	Khakis (including Sharon fruit)	396,06	15 923	2959,51	774,65	2 605,58	105 622	317,49	707 650	868,82	310,67
2.250	ex 0810 90 30	Lychees	501,29	20 153	3 745,82	980,47	3 297,86	133 685	401,85	895 666	1 099,66	393,21

COMMISSION REGULATION (EEC) No 1477/93**of 16 June 1993****temporarily suspending the advance fixing of export refunds for certain beef and veal sector products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 125/93 ⁽²⁾,

Having regard to Council Regulation (EEC) No 885/68 of 28 June 1968 laying down general rules for granting export refunds on beef and veal and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 427/77 ⁽⁴⁾, and in particular the second subparagraph of Article 5 (4) thereof,

Whereas consideration of the situation on the market in beef and veal reveals, the existence of a number of problems arising from the application of the provisions concerning the advance fixing of the refund; whereas

applications are, for speculative purposes, being submitted for the advance fixing of the refund for certain products as a result; whereas the advance fixing of refunds should therefore be suspended, with no action being taken on applications already lodged but not yet dealt with,

HAS ADOPTED THIS REGULATION:

Article 1

The advance fixing of export refunds for products covered by CN codes 0201 30 00 and 0202 30 90 is hereby suspended on 17 and 18 June 1993.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 18, 27. 1. 1993, p. 1.

⁽³⁾ OJ No L 156, 4. 7. 1968, p. 2.

⁽⁴⁾ OJ No L 61, 5. 3. 1977, p. 16.

COMMISSION REGULATION (EEC) No 1478/93

of 16 June 1993

amending Commission Regulation (EEC) No 1229/93 authorizing certain intervention agencies to put up for sale by tender 500 000 tonnes of common wheat for export in the form of flour

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽²⁾, and in particular Article 7 (6) thereof,

Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for intervention on the market in cereals ⁽³⁾, as last amended by Regulation (EEC) No 2203/90 ⁽⁴⁾, provides that the sale of cereals held by intervention agencies must be by invitation to tender;

Whereas Commission Regulation (EEC) No 1836/82 ⁽⁵⁾, as last amended by Regulation (EEC) No 966/93 ⁽⁶⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas Commission Regulation (EEC) No 1229/93 ⁽⁷⁾ lays down the detailed rules and undertakings for the export of flour equivalent in quantity to that which would be obtained from intervention common wheat; whereas the Regulation specifies the periods and final dates for the export of the flour; whereas it appears that the required objective, which is the realization of exports, can be achieved by the completion of customs export formalities; whereas, therefore, the export conditions should be modified as a matter of urgency;

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

In Article 4 of Regulation (EEC) No 1229/93, paragraph 2 is replaced by the following:

'2. The customs export formalities for the quantity of flour equivalent to that which would be obtained from cereals awarded before 1 July 1993 must be completed by 10 August 1993 at the latest.

The customs export formalities for the quantity of flour equivalent to that which would be obtained from cereals awarded after 1 July 1993 must be completed within 30 days following the date of the award and not later than 31 August 1993.'

Article 2

This Regulation shall enter into force on the 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, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 5.

⁽⁵⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁶⁾ OJ No L 98, 24. 4. 1993, p. 25.

⁽⁷⁾ OJ No L 124, 20. 5. 1993, p. 14.

COMMISSION REGULATION (EEC) No 1479/93**of 16 June 1993****altering the export refunds on white sugar and raw sugar exported in the natural state**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3814/92 ⁽²⁾, and in particular the second subparagraph of Article 19 ⁽⁴⁾ thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 1408/93 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1264/93 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁴⁾ are used to convert amounts expressed in third country currencies

and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 1408/93, are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽³⁾ OJ No L 139, 10. 6. 1993, p. 5.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 108, 1. 5. 1993, p. 106.

ANNEX

to the Commission Regulation of 16 June 1993 altering the export refunds on white sugar and raw sugar exported in the natural state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	35,37 ⁽¹⁾
1701 11 90 910	31,89 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	35,37 ⁽¹⁾
1701 12 90 910	31,89 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,3845
	— ECU/100 kg —
1701 99 10 100	38,45
1701 99 10 910	37,81
1701 99 10 950	37,81
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,3845

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EEC) No 1480/93

of 16 June 1993

fixing the export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 638/93⁽²⁾, and in particular Article 30 (4) thereof,

Whereas Article 30 of Regulation (EEC) No 1035/72 provides that, to the extent necessary to allow economically significant quantities to be exported, the difference between prices in international trade for the products referred to in that Article and prices for the products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2518/69 of 9 December 1969 laying down general rules for the granting of refunds on exports of fruit and vegetables and criteria for fixing their amounts⁽³⁾, as amended by Regulation (EEC) No 2455/72⁽⁴⁾, provides that when refunds are being fixed, account must be taken of the existing situation and future trends with regard to prices and availabilities of fruit and vegetables on the Community market on the one hand and prices in international trade on the other; whereas account must also be taken of the costs indicated in (b) of that Article and of the economic aspects of the proposed exports;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2518/69, when prices on the Community market are being determined account must be taken of the prices which are most favourable from the exportation point of view; whereas, when prices in international trade are being determined, the quotations and prices referred to in paragraph 2 of that Article must be taken into account;

Whereas the situation with regard to international trade or the specific requirements of certain markets may make it necessary to vary the refund for a given product according to the destination of that product;

Whereas tomatoes, fresh lemons, fresh sweet oranges, apples, peaches and nectarines of the common quality standards 'Extra' Class, Class I and Class II, table grapes of 'Extra' Class and Class I, almonds and hazelnuts, and

unshelled walnuts may at present be exported in economically significant quantities;

Whereas the refund applicable to exports of tomatoes to Sweden should be amended during the period 1 July to 30 September 1993 pursuant to the undertakings entered into with that country under the 1980 agreement⁽⁵⁾;

Whereas Council Regulation (EEC) No 990/93⁽⁶⁾ prohibits trade between the European Economic Community and the Federal Republic of Yugoslavia (Serbia und Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁷⁾ are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁸⁾;

Whereas it follows from applying these detailed rules to the present market situation and to its future trends, and in particular to quotations and prices for fruit and vegetables in the Community and in international trade that the refunds should be as set out in the Annex hereto;

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

Export refunds in the fruit and vegetables sector shall be fixed at the amounts specified in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 July 1993.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 69, 20. 3. 1993, p. 7.

⁽³⁾ OJ No L 318, 18. 12. 1969, p. 17.

⁽⁴⁾ OJ No L 266, 25. 11. 1972, p. 7.

⁽⁵⁾ OJ No L 194, 28. 7. 1980, p. 12.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 108, 1. 5. 1993, p. 96.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 16 June 1993 fixing the export refunds on fruit and vegetables

(ECU/100 kg net)			(ECU/100 kg net)		
Product code	Destination of refund (1)	Amounts of refunds (2)	Product code	Destination of refund (1)	Amounts of refunds (2)
0702 00 10 100	04	4,50 (3)	0806 10 11 900	—	—
0702 00 10 900	—	—	0806 10 15 200	04	4,84
0702 00 90 100	04	4,50 (3)	0806 10 15 900	—	—
0702 00 90 900	—	—	0806 10 19 200	04	4,84
0802 12 90 000	04	9,67	0806 10 19 900	—	—
0802 21 00 000	04	11,30	0808 10 31 100	—	—
0802 22 00 000	04	21,80	0808 10 31 910	02	8,00
0802 31 00 000	04	14,00	0808 10 31 990	—	—
0805 10 11 200	01	11,00	0808 10 33 100	—	—
0805 10 11 900	—	—	0808 10 33 910	02	8,00
0805 10 15 200	01	11,00	0808 10 33 990	—	—
0805 10 15 900	—	—	0808 10 39 100	—	—
0805 10 19 200	01	11,00	0808 10 39 910	02	8,00
0805 10 19 900	—	—	0808 10 39 990	—	—
0805 10 21 200	01	11,00	0808 10 51 100	—	—
0805 10 21 900	—	—	0808 10 51 910	02	8,00
0805 10 25 200	01	11,00	0808 10 51 990	—	—
0805 10 25 900	—	—	0808 10 53 100	—	—
0805 10 29 200	01	11,00	0808 10 53 910	02	8,00
0805 10 29 900	—	—	0808 10 53 990	—	—
0805 10 31 200	01	11,00	0808 10 59 100	—	—
0805 10 31 900	—	—	0808 10 59 910	02	8,00
0805 10 35 200	01	11,00	0808 10 59 990	—	—
0805 10 35 900	—	—	0808 10 81 100	—	—
0805 10 39 200	01	11,00	0808 10 81 910	02	8,00
0805 10 39 900	—	—	0808 10 81 990	—	—
0805 10 41 200	01	11,00	0808 10 83 100	—	—
0805 10 41 900	—	—	0808 10 83 910	02	8,00
0805 10 45 200	01	11,00	0808 10 83 990	—	—
0805 10 45 900	—	—	0808 10 89 100	—	—
0805 10 49 200	01	11,00	0808 10 89 910	02	8,00
0805 10 49 900	—	—	0808 10 89 990	—	—
0805 20 50 100	—	—	0809 30 10 100	03	5,00
0805 20 50 900	—	—	0809 30 10 900	—	—
0805 30 10 100	04	13,50	0809 30 90 100	03	5,00
0805 30 10 900	—	—	0809 30 90 900	—	—
0806 10 11 200	04	4,84			

(1) The destinations are as follows:

01 Austria, Switzerland, Finland, Sweden, Greenland, Norway, Iceland, Malta, Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Bosnia-Herzegovina, Croatia, Slovenia and the former Yugoslav Republic of Macedonia,

02 Sweden, Norway, Iceland, Austria, the Faroe Islands, Finland, Greenland, Malta, Syria, Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Bosnia-Herzegovina, Croatia, Slovenia and the former Yugoslav Republic of Macedonia, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia, the countries and territories of Africa other than South Africa, countries of the Arabian peninsula (Saudi Arabia, Bahrain, Qatar, Oman, the United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm, al Qaiwain, Fujairah and Ras al Khaimah), Kuwait, Yemen), Iran and Jordan,

03 all destinations excluding Switzerland and Austria,

04 all destinations.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

(3) For exports to Sweden in the period 1 July to 30 September 1993, the refund is reduced to ECU 1,16 per 100 kg.

COMMISSION REGULATION (EEC) No 1481/93

of 16 June 1993

fixing the maximum export refund for white sugar for the third partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 1144/93

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3814/92 ⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 1144/93 of 10 May 1993 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, as amended by Regulation (EEC) No 1415/93 ⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1144/93, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the third partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 990/93 ⁽⁵⁾ prohibits trade between the European Economic Community

and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the third partial invitation to tender for white sugar issued pursuant to amended Regulation (EEC) No 1144/93 the maximum amount of the export refund is fixed at ECU 40,350 per 100 kilograms.

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽³⁾ OJ No L 116, 12. 5. 1993, p. 5.

⁽⁴⁾ OJ No L 139, 10. 6. 1993, p. 15.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

COMMISSION REGULATION (EEC) No 1482/93

of 16 June 1993

fixing the maximum export refunds on olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2046/92⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on the refunds and levies applicable to exports of olive oil⁽³⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EEC) No 3143/92⁽⁴⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾ prohibits trade between the European Economic Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas Article 6 of Regulation (EEC) No 3143/92 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Commu-

nity and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the above-mentioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 June 1993.

Article 2

This Regulation shall enter into force on 17 June 1993.

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

Done at Brussels, 16 June 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 313, 30. 10. 1992, p. 39.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

ANNEX

to the Commission Regulation of 16 June 1993 fixing the maximum export refunds on olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92

(ECU/100 kg)

Product code	Amount of refund ⁽¹⁾
1509 10 90 100	38,85
1509 10 90 900	63,00
1509 90 00 100	48,90
1509 90 00 900	76,00
1510 00 90 100	8,45
1510 00 90 900	38,00

⁽¹⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as last amended by Regulation (EEC) No 425/93 (OJ No L 48, 26. 2. 1993, p. 26).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 9 March 1993

concerning the application of the national regional aid scheme in an area in the north of the Province of Madrid

(Only the Spanish text is authentic)

(93/353/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given the parties concerned notice to submit their comments, in accordance with Article 93,

Whereas :

I

By letter of 1 June 1987 the Commission notified the Spanish Government of its decision to accept the areas and aid ceilings under the national regional aid scheme in Spain. By letter of 1 September 1987 and telex message of 14 March 1988 the Commission notified the Spanish Government of its decision to accept the other terms of the scheme, including the form of aid and the types of eligible investment. On the basis of these decisions, the national regional aid scheme (Law 50/1985 and Royal Decree 1535/1987) was gradually established by the Spanish Government, by royal decrees determining the various assisted areas.

In an area situated in the north of the Province of Madrid, the Sierra Norte, the Commission, taking into account Protocol No 12 to the Act of Accession of Spain to the European Communities, decided to permit, as an excep-

tion and for a period of three years followed by a review, the grant of regional aid with an intensity ceiling of 45 % net grand equivalent (nge).

By letter of 7 June 1990 from its Permanent Representative, the Spanish Government requested the Commission to permit the validity of the ceiling in this area to be extended for an unspecified time.

After reviewing the case for maintaining the ceiling in this area, the Commission decided to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of the grant of aid under the national regional aid scheme with an intensity ceiling of 45 % nge in the Sierra Norte, in the north of the Province of Madrid.

By letter dated 3 August 1990 the Commission gave the Spanish Government formal notice to submit its comments. The other Member States and interested third parties were also given notice to submit their comments⁽¹⁾.

II

The Spanish Government submitted its comments by letter dated 3 October and 10 October 1990. In its letters, the Spanish Government requested that the extension of the right to grant regional aid with an intensity ceiling of 45 % nge be reviewed, bearing in mind the following comments in particular :

⁽¹⁾ OJ No C 32, 7. 2. 1991, pp. 5 and 6.

- the fact that the Province of Madrid failed to satisfy the conditions necessary for the first stage of the procedure for the application of Article 92 (3) (c) to regional aid had not prevented aid being granted in the Decision of 1 June 1987 because of the socio-economic backwardness of the area in question. The decision stated that this was a mountainous, agricultural area forming a natural extension of the Provinces of Segovia and Guadalajara which fitted in better with the socio-economic background of those provinces than with that of the Province of Madrid to which it was attached for administrative purposes;
- the socio-economic situation of the area had not altered appreciably in the course of the last three years;
- this area could not be considered to fit in with the socio-economic background of the rest of the Province of Madrid. Caution was therefore necessary in drawing on provincial data to verify whether the criteria for the application of Article 92 (3) (c) had been satisfied;
- although the Spanish Government had not used, under the national regional aid scheme, the authorization given it by the Commission to grant regional aid in the Sierra Norte, the basic problems continued, so that the possibility should remain open;
- it was basically the impact of the metropolitan area of Madrid in the province which prevented the Province of Madrid from meeting the criteria for per capita GDP and structural unemployment in the first stage of the procedure for the application of Article 92 (3) (c). In the absence of data at municipal level, it appeared preferable to assess the per capita GDP for the Sierra Norte as follows:
 - it should be compared with the Provinces of Segovia and Guadalajara whose socio-economic situation bore a greater resemblance to that of the north of the Province of Madrid than to the capital itself. The per capita GDP of Segovia was 84 % of the national average between the years 1986 and 1988 whilst, taking Spain as 100, Guadalajara's index dropped from 103 to 99 between 1985 and 1989,
 - the income indicator used should be the personal income tax payable per inhabitant. In 1986 the average amount for the Sierra Norte was Pta 28 792, that is around one third of the average of the Autonomous Community of Madrid as a whole (Pta 85 026).
- With regard to employment, in 1986 the rate of unemployment was 18 %, and the employed labour force in the primary sector in the area⁽¹⁾ accounted for 19,48 % of total employment. Furthermore, between 1987 and 1989 jobs in agriculture in the Province of Madrid fell by 36,1 %, primarily affecting the Sierra Norte because of the level of agricultural employment in the area. Finally, between 1981 and 1986 the proportion of jobs in the area in industry and construction fell from 21,32 to 20,05 % and from 17,60 to 11,81 % respectively, whilst the proportion of jobs in the service industry increased from 48,13 to 59,29 %;
- the tendency for people to leave the area had resulted in the loss of a quarter of the population since 1950. The process reflected large-scale migration, principally by young persons, to metropolitan Madrid. The net migration balance for the area, excluding Colmenar Viejo, was - 12 % between 1976 and 1981. In 1986 the ageing index⁽²⁾ of the area⁽¹⁾ (17,5 %) was much higher than that of the Province of Madrid (9,3 %) and the national average (10,9 %), whilst the population under 16 accounted for only 19,05 % of the population of the area⁽¹⁾;
- agriculture in the area, which was very prominent, had low productivity because of the small size of the farms (79 % being less than 20 hectares), the low degree of use (75,4 % of farms being unproductive) and the age of the workforce (52,7 % of the agricultural workforce being over 50);
- the proximity of metropolitan Madrid had adverse effects on the environment and buildings in the area, with the gradual abandonment of agricultural and rural housing through migration to Madrid, the widespread use of the area for leisure purposes by the inhabitants of Madrid and the construction of five dams to the detriment of most of the irrigable land. Moreover, certain of the municipalities in the area lacked swift, modern means of communication;
- Protocol 12 to the Act of Accession of Spain to the European Communities did not specify a time when the Protocol would cease to be applicable. It was Spain's regional development objectives which were crucial in applying the Protocol.

⁽¹⁾ Excluding four municipalities.

⁽²⁾ Percentage of the population aged 65 and over.

In its letter of 7 June 1990 the Spanish Government also indicated that:

- in 1986 the area's population was 50 029 and population density was 30,5 inhabitants per km²;
- 77 % of the municipalities had fewer than 500 inhabitants. Some were liable to disappear since in 1980 only one had fewer than 100 inhabitants and only eight had fewer than 200, whilst in 1986 there were 11 in the former category and 22 in the latter;
- the fact that the rate of unemployment in the area was lower than the average for the province was not a particularly positive aspect given the high level of agricultural underemployment.

III

The other Member States and interested third parties did not submit comments to the Commission within the time allowed.

IV

- (a) The aid granted by the Spanish Government under the national regional aid scheme is caught by Article 92 (1) of the EEC Treaty.

This aid is granted to enterprises investing in certain areas of Spain. It favours these enterprises as it is not granted for similar investments outside these areas.

The aid distorts competition since it improves the recipient's financial position and scope for action compared with competitors which do not receive aid. Where this effect arises in intra-Community trade, such trade is affected by the aid.

In particular, the aid distorts competition and affects trade between the Member States where enterprises in receipt of aid export part of their production to other Member States; even if such enterprises do not export, domestic production is favoured because enterprises established in other Member States have less chance of exporting their products to the Spanish market⁽¹⁾.

Trade is also affected by the influence of the aid on beneficiary enterprises' choice of location. In so far as the aid prompts the enterprises to locate in areas qualifying for aid or to move from one Member State to another, production at the new location and the supply of the goods produced there alter trade flows between the Member States.

These points show that the aid granted under the national regional aid scheme is caught by Article 92 (1). Consequently, the continued grant of such aid in the Sierra Norte in the Province of Madrid is incompatible with the common market unless one of the derogations laid down in the Treaty applies.

- (b) Since this case concerns regional aid, the only possible derogations from the prohibition of aid set out in Article 92 (1) are those specified in Article 92 (3) (a) and (c), which lay down objectives to be pursued in the interests of the Community and not exclusively those of the Member States or of the beneficiaries of aid. These derogations must be interpreted restrictively in examining aid schemes and their application.

When the Commission applies these derogations to regional aid schemes it must be satisfied that the region's difficulties are sufficiently serious, in relation to the position elsewhere in the Community, to justify the granting of aid and the intensity of that aid. An examination of the schemes must show that the aid is necessary to attain the objectives laid down in Article 92 (3) (a) or (c).

- (c) Article 92 (3) (a) provides that aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment may be considered to be compatible with the common market.

The Commission considers that this derogation applies to NUTS⁽²⁾ level II regions which have a per capita GDP, measured in purchasing power standards (PPS) that does not exceed 75 % of the Community average⁽³⁾.

The NUTS level II region which includes the Sierra Norte in the Province of Madrid is the Autonomous Community of Madrid. The per capita GDP for the Autonomous Community, measured in PPS, exceeds 75 % of the Community average, in fact amounting to 91 % (taking the average for the years 1986 to 1990). Consequently the derogation provided for in Article 92 (3) (a) is not applicable in the Autonomous Community of Madrid, and the grant of aid under the national regional aid scheme in the Sierra Norte in the Province of Madrid accordingly cannot be considered to be compatible with the common market under that derogation.

⁽¹⁾ Judgment of 13 July 1988 in Case 102/87, France v. Commission, [1988] ECR 4067.

⁽²⁾ Nomenclature of territorial units for statistics.

⁽³⁾ OJ No C 212, 12. 8. 1988, p. 2 and OJ No C 163, 4. 7. 1990, p. 6.

- (d) Article 92 (3) (c) provides that aid to facilitate the development of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the common market.

The Commission considers that this derogation applies to regions satisfying the conditions of the method for the application of Article 92 (3) (c) to national regional aid⁽¹⁾. According to the method, which involves two stages of analysis, the regions are assessed on the basis of the NUTS level III geographical unit, which in Spain is the province. A smaller unit may be used in justified exceptional circumstances, in accordance with the principles of the method and with the Commission's practice.

- (e) A Spanish province satisfies the conditions for the first stage of the method if income as measured by per capita GDP is not above 85 % of the national average or the rate of structural unemployment is not below 110 % of the national average.

The NUTS level III region, which includes the Sierra Norte of Madrid is the Province of Madrid. The per capita GDP for the province is higher than 85 % of the national average since it amounts to 125 % of that level (taking the average for the years 1986 to 1990), and the provincial level of structural unemployment is below 110 % of the national average since it amounts to 76 % of that level (average for the years 1988 to 1992). Consequently the Province of Madrid does not satisfy the conditions for the first stage of the method.

- (f) The first stage of analysis must be complemented by a second stage which allows other relevant indicators based on available Community and national statistical data to be taken into account. In some circumstances, and especially for regions which are at the margin of the thresholds applied in the first stage, it is possible that the second stage may reveal an adequate justification for regional aid even in regions which do not fully satisfy the thresholds established in the course of the first stage.

This does not apply in the case of the Province of Madrid, which has a per capita GDP and rate of structural unemployment much more favourable than the thresholds of the first stage and indeed significantly more favourable than the national average.

Moreover, the sole relevant indicator for the Province of Madrid which has been supplied by the Spanish Government is the fall of 36,1 % in agricultural employment in the province between 1987 and 1989. That indicator alone cannot be taken to justify the grant of regional aid in the Province of Madrid since it

concerns an industry which accounted for only 1 % of employment in the province in 1988.

Moreover, the trend in recent years in the per capita GDP and unemployment rate of the Province of Madrid has been favourable, particularly with regard to unemployment, where the position has markedly improved. Whilst the province's per capita GDP increased from 123 % of the national average in 1986 to 127 % of the national average in 1990, the provincial rate of unemployment fell from 86 % of the national average in 1988 to 70 % of the national average in 1992.

Consequently, the second stage of the method too does not provide any justification for the grant of regional aid in the Province of Madrid.

- (g) All that remains to be done therefore is to see whether there are exceptional circumstances which, under the method, justify an analysis that focuses on the Sierra Norte alone rather than on the province as a whole.

It should be recalled that the Commission, in its 1987 decision, already identified exceptional circumstances enabling the analysis to be carried out at area rather than provincial level. The Commission especially took account of the fact that the Sierra Norte was a mountainous agricultural area forming a natural extension of the Provinces of Segovia and Guadalajara which fitted in better with the socio-economic background of those provinces than with that of the Province of Madrid, to which it was attached for administrative purposes.

The Sierra Norte remains a mountainous area forming a natural extension of the Provinces of Segovia and Guadalajara.

Looking at the data provided by the Spanish Government, there may be doubts whether the area is in fact agricultural because the percentage of jobs in the primary sector fell from 12,95 % in 1981 to 8,85 % in 1986 and is thus below the national average, which was 16,1 % for 1986. However, the area remains to a certain degree agricultural in so far as in 42 of its 46 municipalities the percentage of jobs in the primary sector (19,48 % in 1986) is higher than the national average.

The population density of the area has increased from 23,9 inhabitants per km² in 1981 to 30,5 inhabitants per km² in 1986. Despite the increase, the population density of the area continues to bear a closer resemblance to the densities of the Provinces of Segovia and Guadalajara (21,7 and 12 inhabitants per km², respectively) than to that of the Province of Madrid (597,9 inhabitants per km²). In this respect, the Sierra Norte continues to have a socio-economic background that is more like that of Segovia and Guadalajara than that of Madrid.

⁽¹⁾ OJ No C 212, 12. 8. 1988, pp. 4 and 5.

The situation in this area also looks very different from that of the rest of the Province of Madrid because the personal income tax payable per inhabitant in the Sierra Norte is on average about one third of that for the Province of Madrid as a whole.

There are thus grounds for again focusing the analysis on the area.

(h) However, the information supplied by the Spanish Government shows that the unemployment rate in the area is a little more favourable than that for the province as a whole, which is significantly lower (see point (e) above) than the threshold of 110 % of the national average applied in the first stage of the method. Since no per capita GDP figures for the area are available it is impossible to conclude that the Sierra Norte does not satisfy the requirements of the first stage of the method. Nevertheless, a comparison with the Provinces of Segovia and Guadalajara suggests that these conditions have not been satisfied since the per capita GDPs of these provinces are 94 and 120 % respectively of the national average (average for the years 1986 to 1990).

(i) In the second stage of the method account must be taken of the additional fact that, since the agricultural productivity of the area appears low (small size and low degree of use of farms, age of the labour force), it may well be that there is underemployment in agriculture, although the level of that underemployment is limited by the size of the primary sector. Finally, despite the relatively unfavourable trend in the area's demographic characteristics (out-migration, depopulation of villages and ageing) its population has in fact grown from 39 319 inhabitants in 1981 to 50 029 inhabitants in 1986. These factors do not permit the area to be considered eligible under the second stage of the method.

(j) Nevertheless, under guidelines adopted by the Commission in 1991, certain national aid restricted to small and medium-sized enterprises (SMEs) may be authorized to the end of 1993 at the request of the Member State concerned in areas satisfying the eligibility criteria under Community structural policies for Objectives 2 and 5b where aid could not be authorized according to the Commission's appraisal in comparable situations, applying the usual criteria of the method, for regions not covered by Objectives 2 or 5b.

Except for the municipality of Colmenar Viejo, the Sierra Norte is currently eligible under Objective 5b. Consequently, the grant of aid under the national regional aid scheme may be authorized in the Sierra Norte in the Province of Madrid (excluding the muni-

cipality of Colmenar Viejo) in accordance with the guidelines referred to in the foregoing paragraph, provided that it is limited to the SMEs specified in the Community guidelines on State aid for small and medium-sized enterprises (SMEs)⁽¹⁾, for a period ending on 31 December 1993.

After that date, all plans to apply the national regional aid scheme in the Sierra Norte in the Province of Madrid must be notified to the Commission under Article 93 (3) of the Treaty.

(k) With regard to maximum aid intensities, the 1991 Commission guidelines provide that the aid which may be authorized in the regions in question are not subject to a ceiling fixed in advance. Nevertheless, according to the Commission's practice in such situations and in relation to investment aid, the acceptable maximum intensities are as follows: 10 or 20 % of the investment, depending on whether it involves SME projects or small enterprises as defined in the Community guidelines. In such cases, the Commission may also authorize aid of up to 40 % of the investment for craft-industry projects (enterprises with a maximum of 10 employees) or tourist projects. Such ceilings have in fact already been authorized by the Commission for aid in the Madrid region under Objective 5b (State aid measure No 31/91). In order to comply with the 1991 guidelines and ensure equality of treatment, the Commission may thus authorize the ceilings for the scheme in question up to the above-mentioned limits, until 31 December 1993.

Finally, the aid must comply with the provisions of Community law on the culmination of aids for different purposes⁽²⁾ and certain sectors of industry, agriculture and fisheries,

HAS ADOPTED THIS DECISION:

Article 1

The scheme of regional aid in the Sierra Norte in the Province of Madrid, excluding the municipality of Colmenar Viejo, which is restricted to SMEs as defined in the Community guidelines on State aid for small and medium-sized enterprises (SMEs) is compatible with the common market within the meaning of Article 92 (3) (c) provided that the aid granted satisfies the following conditions:

⁽¹⁾ OJ No C 213, 19. 8. 1992, p. 2, section 2.2.

⁽²⁾ OJ No C 3, 5. 1. 1985, p. 2.

— the aid intensity does not exceed:

— 40 % of the investment in craft-industry projects (enterprises with a maximum of ten employees) or tourist projects,

— 20 % of the investment in other projects of small enterprises as defined in the Community guidelines on State aid for small and medium-sized enterprises (SMEs), and

— 10 % of the investment in other cases;

— the scheme is not applied after 31 December 1993.

Article 2

The aid shall comply with the provisions of Community law on the cumulation of aids for different purposes and certain sectors of industry, agriculture and fisheries.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 9 March 1993.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 26 May 1993

amending Decision 93/174/EEC relating to a proceeding under Article 85 of the EEC Treaty (IV/34.494 — Tariff structures in the combined transport of goods)

(93/354/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway⁽¹⁾, as amended by the Act of Accession of Greece,

Whereas :

- (1) On 24 February 1993 the Commission adopted Decision 93/174/EEC⁽²⁾ pursuant to Article 5 of Regulation (EEC) No 1017/68 declaring Article 85 (1) of the EEC Treaty to be inapplicable for the period from 1 March 1992 to 28 February 1997 to the agreement on a common tariff structure for the sale of rail haulage in the international combined transport of goods.
- (2) That Decision was addressed to the twelve national railway companies in the Community.
- (3) Following notification of the Decision, two railway companies — British Railways and Córas Iompair Éireann — informed the Commission that, contrary to the information previously given, they were not party to the agreement in question.
- (4) It is therefore necessary to exclude the two companies in question from the scope of the Commission Decision,

HAS ADOPTED THIS DECISION :

Article 1

The companies British Railways and Córas Iompair Éireann are hereby excluded from the scope of Commission Decision 93/174/EEC.

Article 2

This Decision is addressed to :

Córas Iompair Éireann,
Heuston Station,
IRL-Dublin 8 ;

British Railways Board,
167/169 Westbourne Terrace,
UK-London W2 6JY.

Done at Brussels, 26 May 1993.

For the Commission

Karel VAN MIERT

Member of the Commission⁽¹⁾ OJ No L 175, 23. 7. 1968, p. 1.⁽²⁾ OJ No L 73, 26. 3. 1993, p. 38.