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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 3046/93

of 4 November 1993

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation 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⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾,

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 1 and 2 November 1993 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within CN codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

imported product, such amount to be fixed at a standard rate ; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

HAS ADOPTED THIS REGULATION :

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 3

This Regulation shall enter into force on 5 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	79,00 ⁽²⁾
1509 10 90	79,00 ⁽²⁾
1509 90 00	92,00 ⁽³⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

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

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Lebanon : ECU 0,60 per 100 kg ;
- (b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

⁽³⁾ For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

⁽⁴⁾ For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	17,38
0711 20 90	17,38
1522 00 31	39,50
1522 00 39	63,20
2306 90 19	6,16

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

COMMISSION REGULATION (EC) No 3047/93

of 3 November 1993

re-establishing the levying of customs duties on products falling within CN code ex 8528, originating in Indonesia, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

the countries and territories concerned may at any time be re-established ;

Having regard to the Treaty establishing the European Community,

Whereas, in the case of products falling within CN code ex 8528, originating in Indonesia, the individual ceiling was fixed at ECU 4 631 000 ; whereas on 1 October 1993 imports of these products into the Community originating in Indonesia reached the ceiling in question after being charged thereagainst ; whereas it is appropriate to re-establish the levying of customs duties in respect of the products in question against Indonesia,

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries⁽¹⁾, extended for 1993 by Regulation (EEC) No 3917/92⁽²⁾, and in particular Article 9 thereof,

Whereas, pursuant to Articles 1 and 6 of Regulation (EEC) No 3831/90, suspension of customs duties shall be accorded for 1993 to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceilings fixed in column 6 of Annex I ;

HAS ADOPTED THIS REGULATION :

Article 1

Whereas, as provided for in Article 7 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of

As from 8 November 1993, the levying of customs duties, suspended for 1993 pursuant to Regulation (EEC) No 3831/90, shall be re-established on imports into the Community of the following products, originating in Indonesia :

Order No	CN code	Description
10.1055	8528 10 14	Television receivers (including video monitors and video projectors) whether or not combined in the same housing, with radio-broadcast receivers or sound or video recording or reproducing apparatus
	8528 10 16	
	8528 10 18	
	8528 10 22	
	8528 10 28	
	8528 10 52	— Colour
	8528 10 54	— — Television projection equipment
	8528 10 56	— — Apparatus incorporating a videophonic recorder or reproducer
	8528 10 58	
	8528 10 62	
	8528 10 66	— — Television receivers with integral tube
	8528 10 72	
	8528 10 76	

Article 2

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

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 396, 31. 12. 1992, p. 1.

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

Done at Brussels, 3 November 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

COMMISSION REGULATION (EC) No 3048/93

of 4 November 1993

amending Regulation (EEC) No 675/88 laying down detailed rules for the production aid for certain varieties of rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽¹⁾, as last amended by Regulation (EEC) No 1544/93⁽²⁾, and in particular Article 8a (5) thereof,

Whereas Regulation (EEC) No 675/88⁽³⁾ laid down detailed rules for the implementation of production aid for certain varieties of rice;

Whereas, in order to ensure that the scheme operates efficiently, monitoring arrangements should be laid down to guarantee that aid is granted only for the areas and products eligible; whereas the loss of an applicant's right to aid for all the areas contained in a false declaration is an excessive penalty; whereas, therefore, Regulation (EEC) No 675/88 should be amended;

Whereas the amended rules should apply to applications in respect of rice planted during the 1992/93 marketing year for harvest in 1993;

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

Article 5 of Regulation (EEC) No 675/88 is hereby replaced by the following:

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

Done at Brussels, 4 November 1993.

Article 5

1. If, on inspection, the area actually determined is found to be greater than that declared in the application, the area declared shall be used for calculation of the aid.

2. If the area actually determined is found to be less than that declared in an application, the area actually determined shall be used for calculation of the aid. However, except in cases of *force majeure*, the area actually determined shall be reduced:

- by twice the difference found if this is more than 2 % or 2 hectares but not more than 10 % of the determined area,
- by 30 % if the difference found is more than 10 % but not more than 20 % of the determined area.

If the difference is more than 20 % of the determined area, or a false declaration is found to have been made intentionally or to be the result of serious negligence, no aid shall be granted.

This paragraph shall apply without prejudice to any further sanctions provided for under national law.

Article 2

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

It shall apply with effect from 30 July 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 154, 25. 6. 1993, p. 5.

⁽³⁾ OJ No L 70, 16. 3. 1988, p. 12.

COMMISSION REGULATION (EC) No 3049/93

of 4 November 1993

amending Regulation (EEC) No 570/88 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 2071/92⁽²⁾, and in particular Articles 6 (7), 12 (3) and 28 thereof,

Whereas, following the amendments made by Commission Regulation (EEC) No 1813/93⁽³⁾ to Regulation (EEC) No 570/88⁽⁴⁾, as last amended by Regulation (EEC) No 2443/93⁽⁵⁾, divergences have been found in certain Member States in the interpretation of the term 'intermediate products'; whereas in order to remedy this situation and to avoid any discrimination between Community operators, criteria should be laid down to permit objectively and transparency in the identification of those products; whereas, furthermore, for technical and commercial reasons, products other than products falling within codes 0401 to 0406 of the Combined Nomenclature, with the exception of CN codes 0402 21 19 and 0402 21 99, should be considered to be 'intermediate products' and Annex IX to Regulation (EEC) No 570/88 should be amended to include as intermediate products products falling within CN code 1704 90 30;

Whereas, notwithstanding the general rules, Article 21 (4) of Regulation (EEC) No 570/88, for imperative and duly justified commercial reasons, provides for the possibility of a change in the intended use between formula A/C/D and formula B; whereas that derogation must be strictly interpreted and applied where the minimum selling prices or where appropriate, the maximum levels of aid are different for formula A/C/D and formula B; whereas such a strict application is unnecessary where the minimum selling prices or, where appropriate, the maximum levels of aid are identical for the two formulae; whereas, therefore, a change in the intended use may be authorized at the request of the operator;

Whereas, pursuant to Article 9 of Regulation (EEC) No 570/88, intermediate products and processing establishments must receive prior approval from 1 August

1993; whereas, for administrative reasons and for reasons of judicial security, approval given before 1 August should be considered valid until the approval procedure is completed and at the latest until 30 November 1993;

Whereas the Management Committee for Milk and Milk Products has not issued an opinion in the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 570/88 is hereby amended as follows:

1. The following sentence is added to Article 9 (1) (a):

'However, approval for intermediate products approved before 1 August 1993 shall be valid until the competent authority has completed its examination of the application and at the latest until 30 November 1993.'

2. In Article 9a, the terms 'falling within CN codes 0401 and 0405' are replaced by the terms 'falling within CN codes 0401, 0402 (with the exception of CN codes 0402 21 19 and 0402 21 99), 0403, 0404, 0405 and 0406'.

3. The following subparagraph is added to Article 21 (4):

'However, where the minimum selling price or, where appropriate, the maximum level of aid referred to in Article 18 (1) are identical for formula A/C/D and formula B, the competent authority may authorize, under its supervision and in compliance with the provisions of this Regulation, a change in the intended use between the two formulae at the request of the tenderer.'

4. In point 1 of Annex IX, the terms 'falling within CN code 1806' are replaced by the terms 'falling within CN codes 1704 90 30 and 1806'.

Article 2

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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 64.

⁽³⁾ OJ No L 166, 8. 7. 1993, p. 16.

⁽⁴⁾ OJ No L 55, 1. 3. 1988, p. 31.

⁽⁵⁾ OJ No L 224, 3. 9. 1993, p. 8.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 3050/93

of 4 November 1993

amending Regulation (EEC) No 84/93 as regards the conditions for the recognition of producer groups and the payment of the specific aid in the tobacco sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco ⁽¹⁾, and in particular Articles 12 (3) and 27 thereof,

Whereas, to adhere to the spirit of Article 12 of Regulation (EEC) No 2075/92, and to encourage in particular the concentration of supply and its adjustment to the market's qualitative requirements, it can be agreed that where a producer group consists wholly or partly of members which are themselves producer groups the total number of producers who belong directly or indirectly to the composite group is the important factor; whereas the conditions for recognizing producer groups laid down by Commission Regulation (EEC) No 84/93 of 19 January 1993 on the specific aid to be granted to producer groups in the raw tobacco sector ⁽²⁾ should accordingly be partly redefined;

Whereas Council Regulation (EEC) No 1360/78 of 19 June 1978 on producer groups and associations thereof ⁽³⁾, as last amended by Regulation (EEC) No 746/93 ⁽⁴⁾, lays down that recognition of a producer group is subject to the inclusion in its articles of association of specific provisions to ensure that group members wishing to withdraw their membership may do so; whereas those internal rules differ from those laid down for the recognition of producer groups pursuant to Regulation (EEC) No 84/93; whereas provision should therefore be made so that the groups recognized pursuant to Regulation (EEC) No 1360/78 are not required to amend their statutes so as to be eligible for the specific aid provided for by Regulation (EEC) No 84/93;

Whereas, in accordance with Article 3 of Regulation (EEC) No 84/93, the Member States are required to send the Commission for its approval the drafts granting groups recognition; whereas, in the light of experience, the procedure should be simplified so that groups can be recognized more speedily;

Whereas, with a view to the effective use of the specific aid provided for in Regulation (EEC) No 2075/92, provision should be made for paying advances to producer

groups; whereas the conditions for the payment and use of such advances should be laid down;

Whereas Article 2 (1) (e) and Article 2 (1) (l) of Regulation (EEC) No 84/93 lay down that the articles of association governing the operation of the group must include specific provisions on both marketing of production compliance with common rules on production; whereas certain producer groups would be required to amend their present articles of association to bring them into line with Article 2 (1) (e) and Article 2 (1) (l) of Regulation (EEC) No 84/93 in order to be eligible for the specific aid provided for in that Regulation; whereas such a amendment of internal rules involves lengthy administrative procedures that are difficult to undertake within the time limits provided for; whereas it should therefore be agreed, on a temporary basis and for the 1993 harvest alone, that observance of the conditions laid down in Article 2 (1) (e) and Article 2 (1) (l) may be evidenced by special documents approved by the competent authority in the Member State;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 84/93 is hereby amended as follows:

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

'2. Where a producer group consists wholly or partly of members who are themselves producer groups, each of those groups must meet the conditions laid down in this Regulation, with the exception of those laid down in Article 2 (1) (f).'

2. The following paragraph is added after the second indent of Article 2 (1) (g):

'However, where the group receives the aid provided for in Title III of Council Regulation (EEC) No 1360/78 ⁽⁵⁾, the provisions laid down in Article 6 (1) (d) of that Regulation shall apply.'

⁽⁵⁾ OJ No L 166, 23. 6. 1978, p. 1.'

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 12, 20. 1. 1993, p. 5.

⁽³⁾ OJ No L 166, 23. 6. 1978, p. 1.

⁽⁴⁾ OJ No L 77, 31. 3. 1993, p. 14.

3. The second indent of Article 3 (2) is replaced by the following :

— shall forward the draft decisions on recognition to the Commission. If the Commission does not object within two months from the date the draft is received, recognition shall take effect.'

4. The introductory wording of Article 8 (1) is replaced by the following :

'1. Without prejudice to Article 8a, the specific aid shall be paid to the producer group, at its request, in one instalment by the Member State in which the group is established, on the basis of the following:'

5. The following Article 8a is inserted :

'Article 8a

1. At its request, the Member State shall pay the group an advance on the specific aid. The size of the advance shall be established on the basis of the quantity of tobacco which the group has supplied to the processor at the time of presentation of the application and for which an amount equal to the premium has been paid in accordance with Article 10 of Regulation (EEC) No 3478/92. The Member State shall lay down the additional conditions for payment of the advance.

Within six weeks from the date on which the advance is received, the group shall be required to allocate at least 75 % of the advance to its members as an advance on the income supplement provided for in the first indent of Article 7 (1). Where this time limit is not observed, the amount of the advance still outstanding shall be subject to the payment of interest, at a rate to be fixed by the Member State. This interest shall be credited to the European Agricultural Guidance and Guarantee Fund (EAGGF).

2. Payment of the advance on the specific aid shall be subject to the lodging of a security which shall be at least equal to the advance, plus 15 %.

3. The security shall be released upon presentation of the evidence relating to the specific aid, as referred to in Article 8 (1) of this Regulation.

4. The provisions of Commission Regulation (EEC) No 2220/85 (*) shall apply, except where otherwise provided for in this Regulation.

(*) OJ No L 205, 3. 8. 1985, p. 5.'

6. Article 9 is replaced by the following :

'Article 9

For the 1993 harvest, Member States may also pay the specific aid to producer groups :

- which do not have the minimum number of members laid down in Article 2 (1) (f), and
- whose articles of association do not contain the provisions referred to in Article 2 (1) (e), (g) and (l).

However, payment of the specific aid shall be subject to the following conditions :

- the producer groups must have been recognized by the Member State before 1 July 1992 and have produced tobacco during the 1992 harvest as part of the activities for which recognition was granted,
- where the articles of association do not contain the provisions referred to in Article 2 (1) (e) and (l), the groups shall provide proof :
 - (a) that they have placed their entire production for marketing on the market in accordance with Article 2 (2), and
 - (b) that the group members comply with common rules on production and marketing.'

Article 2

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

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 3051/93

of 4 November 1993

re-establishing the levying of customs duties on products falling within CN code 2933 71 00, originating in Poland, to which the tariff ceilings set out in Council Regulation (EEC) No 3918/92 apply

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

Having regard to Council Regulation (EEC) No 3918/92 of 28 December 1992 opening and providing for the administration of Community tariff quotas and ceilings for certain agricultural and industrial products and establishing a reduced variable component for certain processed agricultural products originating in Hungary, Poland and the territory of the former Czech and Slovak Federal Republic (CSFR) (1), as amended by Regulation (EEC) No 2232/93 (2), and in particular Article 6 thereof,

Whereas, pursuant to Article 1 of Regulation (EEC) No 3918/92, Hungary, Poland and the territory of the former Czech and Slovak Federal Republic (CSFR) shall benefit from preferential tariff arrangements, in particular the preferential tariff ceilings laid down in column 6 of Annex I to that Regulation; whereas, pursuant to Article 6, as soon as the ceilings have been reached, the Commission may adopt a Regulation re-establishing the customs duties applicable to the third countries in question until the end of the calendar year;

Whereas that ceiling was reached by charges of imports of the products listed in the Annex, originating in Poland, to which the tariff preferences apply;

Whereas, it is appropriate to re-establish the levying of customs duties for the products in question with regard to Poland,

HAS ADOPTED THIS REGULATION:

Article 1

As from 8 November 1993 the levying of customs duties, suspended for 1993 pursuant to Regulation (EEC) No 3918/92, shall be re-established on imports into the Community of the products listed in the Annex, originating in Poland.

Article 2

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

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

Done at Brussels, 4 November 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

ANNEX

Order No	CN code	Description
21.0081	2933 71 00	— — 6-Hexanelactam (epsilon-caprolactam)

(1) OJ No L 396, 31. 12. 1992, p. 12.

(2) OJ No L 200, 10. 8. 1993, p. 1.

COMMISSION REGULATION (EC) No 3052/93

of 4 November 1993

fixing for the 1993/94 marketing year the reference price for sweet oranges

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 27 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, and in particular Article 9 (1) thereof,

Having regard to Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus to be amended as a result of the monetary realignments ⁽⁴⁾, as amended by Regulation (EEC) No 1663/93 ⁽⁵⁾, and in particular Article 2 thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices valid for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of sweet orange production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which oranges harvested during a given crop year are marketed extends from October to 15 July of the following year; whereas the quantity put on the market during October and November and from 1 June to 15 July of the following year represents only a small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for a period running from 1 December to 31 May of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most

suited to the particular nature of the Community market in the product in question;

Whereas Article 23 (2) (b) of the abovementioned Regulation stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State with regard to Article 23 (2) plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas Article 1 of Commission Regulation (EEC) No 3820/92 of 28 December 1992 on transitional measures for the application of the agrimonetary arrangements laid down in Council Regulation (EEC) No 3813/92 ⁽⁶⁾ establishes a correspondence between the provisions of the agrimonetary arrangements applicable from 1 January 1993 and those applicable before that date;

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 22.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 69, 20. 3. 1993, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 29.

⁽⁵⁾ OJ No L 158, 30. 6. 1993, p. 18.

Whereas Regulation (EEC) No 3824/92 establishes a list of prices and amounts for the fruit and vegetables sector which are to be divided by a coefficient of 1,010495, fixed by Regulation (EEC) No 537/93 ⁽¹⁾ amended by Regulation (EEC) No 1331/93 ⁽²⁾, as from the beginning of the 1993/94 marketing year; whereas Article 2 of Regulation (EEC) No 3824/92 lays down that the resulting reduction in the prices and amounts for each sector concerned shall be specified and the level of such reduced prices fixed; whereas, however, this adjustment may not result in a reference price level below that of the preceding marketing year, in accordance with Article 23 (2) of Regulation (EEC) No 1035/72;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1993/94 marketing year, the reference price for fresh sweet oranges (CN codes 0805 10 11, 15, 19, 21, 25, 29, 31, 35, 39, 41, 45 and 49) expressed in ecus per 100 kilograms net and applicable to class I all sizes, packed, shall, for the period 1 December 1993 to 31 May 1994, be: 22,75.

Article 2

This Regulation shall enter into force on 1 December 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 57, 10. 3. 1993, p. 18.

⁽²⁾ OJ No L 132, 29. 5. 1993, p. 114.

COMMISSION REGULATION (EC) No 3053/93

of 4 November 1993

fixing for the 1993/94 marketing year the reference price for clementines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 27 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, and in particular Article 9 (1) thereof,

Having regard to Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus to be amended as a result of the monetary realignments⁽⁴⁾, as amended by Regulation (EEC) No 1663/93⁽⁵⁾, and in particular Article 2 thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of clementine production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which clementines harvested during a given crop year are marketed extends from October to 15 May of the following year; whereas the quantities put on the market at the beginning and at the end of the marketing year represent only a relatively small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for the period running from 1 December to the last day of February of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most

suited to the particular nature of the Community market in the product in question;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the amount referred to in paragraph 2 (a) of that Article and the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the amount referred to in paragraph 2 (a) of that Article,
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State, with regard to Article 23, of the amount referred to in paragraph 2 (a), plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas Article 1 of Commission Regulation (EEC) No 3820/92 of 28 December 1992 on transitional measures for the application of the agrimonetary arrangements laid down in Council Regulation (EEC) No 3813/92⁽⁶⁾ establishes a correspondence between the provisions of the agrimonetary arrangements applicable from 1 January 1993 and those applicable before that date;

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 69, 20. 3. 1993, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 29.

⁽⁵⁾ OJ No L 158, 30. 6. 1993, p. 18.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 22.

Whereas Regulation (EEC) No 3824/92 establishes a list of prices and amounts for the fruit and vegetables sector which are to be divided by a coefficient of 1,010495, fixed by Regulation (EEC) No 537/93 ⁽¹⁾ amended by Regulation (EEC) No 1331/93 ⁽²⁾, as from the beginning of the 1993/94 marketing year; whereas Article 2 of Regulation (EEC) No 3824/92 lays down that the resulting reduction in the prices and amounts for each sector concerned shall be specified and the level of such reduced prices fixed; whereas, however, this adjustment may not result in a reference price level below that of the preceding marketing year, in accordance with Article 23 (2) of Regulation (EEC) No 1035/72;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1993/94 marketing year, the reference price for fresh clementines (CN code ex 0805 20 10) expressed in ecus per 100 kilograms net of packed products of quality class I, of all sizes, shall, for the period 1 December 1993 to 28 February 1994, be: 59,57.

Article 2

This Regulation shall enter into force on 1 December 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 57, 10. 3. 1993, p. 18.

⁽²⁾ OJ No L 132, 29. 5. 1993, p. 114.

COMMISSION REGULATION (EC) No 3054/93
of 4 November 1993

**adopting interim protective measures on applications for STM licences in the
beef and veal sector submitted for trade with Spain from 5 November 1993**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 85 (1) and 252 (1) thereof,

Whereas Commission Regulation (EEC) No 1112/93 of 6 May 1993 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted at 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 3810/91 and (EEC) No 3829/92 ⁽¹⁾, as amended by Regulation (EEC) No 2628/93 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in November and December 1993;

Whereas Article 85 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas an examination of licence application lodged from 1 to 4 November 1993 shows that the quantities

applied for are likely to bring about a serious disturbance of the market for live animals; whereas, as an interim protective measure, licences should only be issued for up to a given percentage of the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

For live animals of the bovine species, other than purebred breeding animals and animals for bullfights:

1. the issuing of STM licences in response to applications submitted from 5 November 1993 onwards is suspended for the time being;
2. further applications may be submitted from 29 November 1993.

Article 2

This Regulation shall enter into force on 5 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 113, 7. 5. 1993, p. 10.

⁽²⁾ OJ No L 240, 25. 9. 1993, p. 22.

COMMISSION REGULATION (EC) No 3055/93

of 4 November 1993

determining the quantities of certain categories of milk and milk products available for the first quarter of 1994 under the arrangements provided for in the Interim Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary and the former Czech and Slovak Federal Republic

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

Having regard to Commission Regulation (EEC) No 584/92 of 6 March 1992 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Interim Agreements between the Community and the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic⁽¹⁾, amended by Regulation (EEC) No 2658/93⁽²⁾, and in particular Article 4 (5) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 1925/93⁽³⁾ determining the extent to which applications lodged in October 1993 for import licences for certain milk products and products covered by the arrangements provided for in the Interim Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic can be accepted, applications for import licences for certain of the products referred to in Regulation (EEC) No 584/92 were for quantities exceeding those available and for other products for quantities less than those available; whereas, therefore the quantity of each product available for the period from 1 January to 31 March 1994 should be fixed;

Whereas declarations have been submitted by both the Czech Republic and the Slovak Republic informing the Community that both those countries shall continue to assume all the obligations deriving, *inter alia*, from the Interim Agreements between the Community and the Czech and Slovak Federal Republic upon the dissolution of the latter on 31 December 1992 and in consequence the concessions provided for in the Interim Agreement should be accorded without distinction to products originating in the Czech Republic or in the Slovak Republic,

HAS ADOPTED THIS REGULATION:

Article 1

The quantity available pursuant to Regulation (EEC) No 584/92 for the period from 1 January to 31 March 1994 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 10 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 62, 7. 3. 1992, p. 34.

⁽²⁾ OJ No L 244, 30. 9. 1993, p. 8.

⁽³⁾ OJ No L 174, 17. 7. 1993, p. 24.

ANNEX

Total quantities available for the period 1 January to 31 March 1994

(tonnes)

Country	Poland			Former Czech Republic and Slovak Federal Republic			Hungary
CN code and product	0402 10 19 0402 21 19 0402 21 99	0405 00 10 butter	0406 cheese	0402 10 19 0402 21 19 0402 21 91	0405 00 10 butter	ex 0406 40-Niva ex 0406 90- Moravsky block ⁽¹⁾	ex 0406 90 89 Balaton ⁽²⁾
Quantity available	900,253	300	600	750	305,120	300	768,600

⁽¹⁾ Primator, Otava, Javor, Uzeny block, Kaskhaval, Akawi, Istambul, Jadel Hermelin, Ostepek, Koliba, Inovec.⁽²⁾ Cream-white, Hajdu, Marvany, Ovari, Pannonia, Trappista.

COMMISSION REGULATION (EC) No 3056/93

of 4 November 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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as amended by Regulation (EEC) No 2193/93⁽²⁾, and in particular Articles 10 (5) and 11 (3) 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⁾,Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2703/93⁽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 3

November 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 2703/93 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 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.⁽⁴⁾ OJ No L 245, 1. 10. 1993, p. 108.

ANNEX

to the Commission Regulation of 4 November 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries ⁽⁸⁾
0709 90 60	86,67 ⁽²⁾ ⁽³⁾
0712 90 19	86,67 ⁽²⁾ ⁽³⁾
1001 10 00	66,91 ⁽¹⁾ ⁽²⁾
1001 90 91	79,97
1001 90 99	79,97 ⁽²⁾
1002 00 00	112,66 ⁽⁶⁾
1003 00 10	119,26
1003 00 20	119,26
1003 00 80	119,26 ⁽²⁾
1004 00 00	90,74
1005 10 90	86,67 ⁽²⁾ ⁽³⁾
1005 90 00	86,67 ⁽²⁾ ⁽³⁾
1007 00 90	99,31 ⁽⁴⁾
1008 10 00	24,15 ⁽²⁾
1008 20 00	24,11 ⁽⁴⁾
1008 30 00	22,65 ⁽²⁾
1008 90 10	⁽⁷⁾
1008 90 90	22,65
1101 00 00	150,31 ⁽²⁾
1102 10 00	195,25
1103 11 30	137,57
1103 11 50	137,57
1103 11 90	173,14
1107 10 11	153,23
1107 10 19	117,24
1107 10 91	223,16 ⁽¹⁰⁾
1107 10 99	169,50 ⁽²⁾
1107 20 00	195,73 ⁽¹⁰⁾

⁽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.

⁽¹⁰⁾ In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

COMMISSION REGULATION (EC) No 3057/93**of 4 November 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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Regulation (EEC) No 2193/93 ⁽²⁾, and in particular Article 12 (4) 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⁾,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1681/93 ⁽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 3 November 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 to be added to the levies fixed in advance for the import in respect of the products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 159, 1. 7. 1993, p. 11.

ANNEX

to the Commission Regulation of 4 November 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 11	1st period 12	2nd period 1	3rd period 2
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	12,15	11,44
1001 90 99	0	0	12,15	11,44
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 20	0	0	0	0
1003 00 80	0	0	0	0
1004 00 00	0	0	0	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	17,00	16,01
1102 10 00	0	0	0	0
1103 11 30	0	0	0	0
1103 11 50	0	0	0	0
1103 11 90	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3
1107 10 11	0	0	21,63	20,36	20,36
1107 10 19	0	0	16,16	15,22	15,22
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EC) No 3058/93

of 4 November 1993

introducing a countervailing charge and suspending the preferential customs duty on imports of fresh lemons originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 the first subparagraph of Article 27 (2) thereof,

Whereas Article 25a (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a non-member country is alternatively above and below the reference price for five to seven consecutive market days a countervailing charge is introduced in respect of that non-member country, save in exceptional cases; whereas that charge is introduced when three entry prices fall below the reference price and one of those entry prices is at least ECU 0,6 below the reference price; whereas that charge is equal to the difference between the reference price and the last available entry price by at least ECU 0,6 below the reference price;

Whereas Commission Regulation (EEC) No 1319/93 of 28 May 1993 fixing the reference price for fresh lemons for the 1993/94 marketing year⁽³⁾ fixed the reference price for products of class I for the period 1 November 1993 to 30 April 1994 at ECU 47,15 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative price or the arithmetic mean of the lowest prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72 according to the dispositions of Regulation (EEC) No 3133/92 of 29 October 1992 altering the entry price for certain fruits and vegetables originating in Mediterranean third countries⁽⁴⁾;

Whereas, in accordance with Article 3 (1) of Regulation (EEC) No 2118/74⁽⁵⁾, as last amended by Regulation (EEC) No 249/93⁽⁶⁾, the prices to be taken into

consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas for fresh lemons originating in Turkey the entry prices calculated in this way have for six consecutive market days been alternatively above and below the reference price; whereas three of these entry prices are at least ECU 0,6 below the reference prices; whereas a countervailing charge should therefore be introduced for these fresh lemons;

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁷⁾, as amended by Regulation (EEC) No 1555/84⁽⁸⁾, a rate of customs duty of 4 % should be reintroduced;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁹⁾ 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⁽¹⁰⁾;

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

1. A countervailing charge of ECU 2,24 per 100 kilograms net is applied on imports of fresh lemons falling within CN code ex 0805 30 10 originating in Turkey.
2. The import duty on these products is fixed at 4 %.

Article 2

This Regulation shall enter into force on 6 November 1993.

Subject to the provisions of the second subparagraph of Article 26 (2) of Regulation (EEC) No 1035/72, this Regulation shall be applicable until 11 November 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 132, 29. 5. 1993, p. 90.

⁽⁴⁾ OJ No L 313, 30. 10. 1992, p. 18.

⁽⁵⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁶⁾ OJ No L 28, 5. 2. 1993, p. 45.

⁽⁷⁾ OJ No L 367, 23. 12. 1981, p. 3.

⁽⁸⁾ OJ No L 150, 6. 6. 1984, p. 4.

⁽⁹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 106.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 3059/93

of 4 November 1993

fixing the export refunds 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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Regulation (EEC) No 2193/93 ⁽²⁾, and in particular the third subparagraph of Article 13 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 2 of Commission Regulation (EEC) No 1533/93 ⁽³⁾, laying down detailed rules on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals;

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EEC) No 1533/93;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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⁾;

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas Council Regulation (EEC) No 990/93 ⁽⁶⁾ 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 Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 November 1993.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 151, 23. 6. 1993, p. 15.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

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

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 4 November 1993 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)			(ECU/tonne)		
Product code	Destination (1)	Amount of refund (2)	Product code	Destination (1)	Amount of refund (2)
0709 90 60 000	—	—	1005 90 00 000	03	35,00
0712 90 19 000	—	—		04	15,00
1001 10 00 200	—	—		02	0
1001 10 00 400	—	—	1007 00 90 000	—	—
1001 90 91 000	05	55,00	1008 20 00 000	—	—
	02	0	1101 00 00 100	01	76,00
1001 90 99 000	03	46,00	1101 00 00 130	01	70,50
	02	15,00	1101 00 00 150	01	64,50
1002 00 00 000	03	25,00	1101 00 00 170	01	59,50
	02	15,00	1101 00 00 180	01	55,50
1003 00 10 000	05	68,00	1101 00 00 190	—	—
	02	0	1101 00 00 900	—	—
1003 00 20 000	03	58,00	1102 10 00 500	01	76,00
	02	15,00	1102 10 00 700	—	—
1003 00 80 000	03	58,00	1102 10 00 900	—	—
	02	15,00	1103 11 30 200	—	— (3)
1004 00 00 200	05	55,00	1103 11 30 900	—	—
	02	0	1103 11 50 200	—	— (3)
1004 00 00 400	—	—	1103 11 50 400	—	—
1005 10 90 000	—	—	1103 11 50 900	—	—
			1103 11 90 200	—	— (3)
			1103 11 90 800	—	—

(1) The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 04 Zones I, III b), VIII a), Cuba and Hungary,
- 05 Algeria and Morocco.

(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) No refund is granted when this product contains compressed meal.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 3060/93**of 4 November 1993****fixing the rates of the refunds applicable to certain cereal and rice-products
exported in the form of goods not covered by Annex II to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as amended by Regulation (EEC) No 2193/93⁽²⁾, and in particular the third subparagraph of Article 13 thereof,Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EEC) No 1544/93⁽⁴⁾, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 13 (1) of Regulation (EEC) No 1766/92 and Article 17 (1) of Regulation (EEC) No 1418/76 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds⁽⁵⁾, as last amended by Regulation (EEC) No 3381/90⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EEC) No 1418/76 as appropriate;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EEC) No 3035/80, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas, in accordance with paragraph 2 of that Article, that rate must be determined with particular reference to:

(a) the average costs incurred by processing industries in obtaining supplies of the basic products in question on the Community market and the prices ruling on the world markets;

(b) the level of the refunds on exports of processed agricultural products covered by Annex II to the Treaty which are manufactured under similar conditions;

(c) the need to ensure equality of competition for the industries which use Community products and those which use third-country products under inward processing arrangements;

Whereas in the absence of evidence that no production refund was granted pursuant to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors⁽⁷⁾, the export refund should be reduced by the amount of the production refund applicable on the day of acceptance of the export declaration; whereas this system is the only one which avoids the risk of fraud;Whereas Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products⁽⁸⁾, as amended by Regulation (EEC) No 2026/83⁽⁹⁾, and Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽¹⁰⁾, as last amended by Regulation (EEC) No 2805/93⁽¹¹⁾, lay down rules on the advance payment of export refunds that must be adhered to when these are adjusted;Whereas, now that a settlement has been reached between the European Economic Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC⁽¹²⁾, it is necessary to differentiate the refund on goods falling within CN codes⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.⁽⁴⁾ OJ No L 154, 25. 6. 1993, p. 5.⁽⁵⁾ OJ No L 323, 29. 11. 1980, p. 27.⁽⁶⁾ OJ No L 327, 27. 11. 1990, p. 4.⁽⁷⁾ OJ No L 159, 1. 7. 1993, p. 112.⁽⁸⁾ OJ No L 62, 7. 3. 1980, p. 5.⁽⁹⁾ OJ No L 199, 22. 7. 1983, p. 12.⁽¹⁰⁾ OJ No L 351, 14. 12. 1987, p. 1.⁽¹¹⁾ OJ No L 256, 14. 10. 1993, p. 7.⁽¹²⁾ OJ No L 275, 29. 9. 1987, p. 36.

1902 11 00 and 1902 19 according to their destination ;

Whereas, for the application of Article 4 (2) (b) of Regulation (EEC) No 3035/80, it is necessary to differentiate the refunds ;

Whereas Council Regulation (EEC) No 990/93⁽¹⁾ 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 in particular the export refund for unprocessed starches falling within CN code 1108 is granted only if the dry matter content is at least 77 % in the case of potato starch and at least 84 % in the case of cereal starches ;

Whereas with regard to potatoes, only potato starches are subject to common organization of the market, consequently steps should be taken to specify the terms that these potato starches should meet in order to qualify for refunds ;

Whereas, in respect of glucose syrup and maltodextrine syrup, the dry extract content for which the rate of refund is set should be specified ;

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

1. Without prejudice to paragraphs 2 and 3 the rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EEC) No 3035/80 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1 (1) of Regulation (EEC) No 1418/76, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EEC) No 1418/76 respectively, are hereby fixed as shown in the Annex to this Regulation.

2. For the products listed in the Annex to Regulation (EEC) No 1722/93 the refunds given in the Annex to this Regulation shall be applied on presentation, at the acceptance of the export declaration and the request for obtaining the export refund, of proof that the basic products used in the manufacture of the products to be exported have not benefited from the production refund provided

for in that Regulation, and that such refund will not be applied for.

The proof referred to in the first subparagraph is provided by the presentation by the exporter of a declaration from the processor of the basic product in question attesting that the latter product has not benefited from a production refund as provided for in Regulation (EEC) No 1722/93, and that no application for such refund will be made.

3. When the proof referred to in paragraph 2 is not provided, the export refund :

(a) applicable on the date of acceptance of the export declaration for the goods, or on the day specified in Article 26 (2) of Regulation (EEC) No 3665/87, where the rate is not fixed in advance ;

(b) of which the rate is fixed in advance,

will be reduced by the amount of the production refund applicable pursuant to Regulation (EEC) No 1722/93 to the basic product in question on the day of acceptance of the export declaration for the goods, or on the day specified in Article 26 (2) of Regulation (EEC) No 3665/87, if the goods have been placed under the export refund advance payment arrangements.

Article 2

1. The refund for starches and potato starch falling within CN code 1108 or products falling within Annex A to Regulation (EEC) No 1766/92 resulting from the processing of these starches and potato starch is granted only on production of a declaration from the suppliers of those products attesting that they have been directly produced from cereals, potatoes or rice excluding all use of subproducts obtained in the production of other agricultural products or goods.

The above declaration can be considered valid, until revocation, for all supplies from the same producer ; it shall be verified in accordance with the provisions of Article 8 (1) and the first indent of paragraph 2 of Regulation (EEC) No 3035/80.

2. Where the dry-extract content of potato starch assimilated to maize starch pursuant to Article 1 (2) (a) of Regulation (EEC) No 3035/80 is 80 % or higher, the rate of the export refund shall be as laid down in the Annex ; where the dry-extract content is less than 80 % the rate of the refund shall be the amount laid down in the Annex multiplied by 1/80th of the actual dry-extract percentage.

For all other starches with a dry-extract content of 87 % or more, the rate of the export refund shall be as laid down in the Annex ; where the dry-extract content is less than 87 % the amount of the refund shall be the rate laid down in the Annex multiplied by 1/87th of the actual dry-extract percentage.

⁽¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

3. For the purposes of paragraph 1 above, the dryextract content of starches shall be determined using the method applied to flour in Annex II to Commission Regulation (EEC) No 1908/84 ⁽¹⁾, as last amended by Regulation (EEC) No 2507/87 ⁽²⁾.

4. At the time of application for the export refund for the goods the applicant must declare the dry-extract content of the starches concerned, unless this information has been recorded by the competent authorities referred to in Article 3 (2) of Regulation (EEC) No 3035/80, in accordance with the provisions of that paragraph.

Article 3

1. If the dry extract content of glucose syrup or maltodextrine syrup falling within CN code 1702 30 59, 1702 30 99, 1702 40 90, 1702 90 50 or 2106 90 55 is greater than or equal to 78 %, the rate of refund shall be that set in accordance with the Annex ; if the dry extract content of the said syrups is less than 78 %, the rate

applied shall be equal to the rate of refund set in accordance with the Annex multiplied by the actual percentage of dry extract and divided by 78.

2. For the purposes of the preceding paragraph, the dry matter content of glucose syrup or maltodextrine syrup shall be determined in accordance with Method 2 described in Annex II to Council Directive 79/796/EEC ⁽³⁾, or in accordance with any other appropriate method of analysis which offer at least the same guarantees.

3. When applying for the export refund, the applicant must state the dry extract content of the glucose syrup and maltodextrine syrup used, unless this information has been recorded by the competent body referred to in Article 3 (2) of Regulation (EEC) No 3035/80, as provided for in that paragraph.

Article 4

This Regulation shall enter into force on 5 November 1993.

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

Done at Brussels, 4 November 1993.

For the Commission

Martin BANGEMANN

Vice-President

⁽¹⁾ OJ No L 178, 5. 7. 1984, p. 22.

⁽²⁾ OJ No L 235, 20. 8. 1987, p. 10.

⁽³⁾ OJ No L 239, 22. 9. 1979, p. 24.

ANNEX

to the Commission Regulation of 4 November 1993 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)
1001 10 00	Durum wheat : — used unprocessed : — — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — — in all other cases — used in the form of : — — pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104 — — hulled grains of CN code 1104 and starch of CN code 1108 — — germ of CN code 1104 — — gluten of CN code 1109 — — other (except flours of CN code 1101 and groats and meal of CN code 1103)	— — — — — — — —
1001 90 99	Common wheat and meslin : — used unprocessed : — — on exports of goods falling within CN code 1902 11 and 1902 19 to the United States of America — — in all other cases — used in the form of : — — pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104 — — hulled grains of CN code 1104 and starch of CN code 1108 — — germ of CN code 1104 — — gluten of CN code 1109 — — other (except flours of CN code 1101, and groats and meal of CN code 1103)	2,328 3,880 2,328 3,492 1,358 — 3,880
1002 00 00	Rye : — used unprocessed — used in the form of : — — pellets of CN code 1103, or pearled grains of CN code 1104 — — rolled or flaked grains and hulled grains of CN code 1104 — — germ of CN code 1104 — — starch of CN code 1108 19 90 — — gluten of CN code 2303 10 90 — — other (except flours of CN code 1102)	3,880 2,328 3,492 1,463 4,181 — 3,880
1003 00 80	Barley : — used unprocessed — used in the form of : — — flours of CN code 1102, groats and meal of CN code 1103, or rolled, flaked or pearled grains of CN code 1104 — — pellets of CN code 1103 — — germs of CN code 1104 — — starch of CN code 1108 19 90 — — gluten of CN code 2303 10 90 — — other	6,681 4,677 4,009 1,463 4,181 — 6,681

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)
1004 00 00	Oats : — used unprocessed — used in the form of : — — pellets of CN code 1103, and pearled grains of CN code 1104 — — rolled or flaked grains and hulled grains of CN code 1104 — — germs of CN code 1104 — — starch of CN code 1108 19 90 — — gluten of CN code 2303 10 90 — — other	6,490 3,894 5,841 1,463 4,181 — 6,490
1005 90 00	Maize (Corn) : — used unprocessed — used in the form of : — — flours of CN codes 1102 20 10 and 1102 20 90 — — groats and meal of CN code 1003 and rolled or flaked grains of CN code 1104 — — pellets of CN code 1103 — — hulled or perled grains of CN code 1104 — — germs of CN code 1104 — — starch of CN code 1108 12 00 — — gluten of CN code 2303 10 11 — — other (3)	4,181 2,927 3,345 2,509 3,763 1,463 4,181 1,672 4,181
1006 20	Round grain husked rice Medium grains husked rice Long grain husked rice	18,755 16,698 16,698
ex 1006 30	Round grain wholly-milled rice Medium grain wholly-milled rice Long grain wholly-milled rice	24,200 24,200 24,200
1006 40 00	Broken rice : — used unprocessed — used in the form of : — — flour of CN code 1102 30, groats and meal or pellets of CN code 1103 — — flaked grains of CN 1104 19 91 — — starch of CN code 1108 19 10 — — other	5,500 5,500 3,300 5,500 —
1007 00 90	Sorghum	6,490
1101 00 00	Wheat or meslin flour : — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in all other cases	2,863 4,772
1102 10 00	Rye flour	5,316
1103 11 30	Durum wheat groats :	
1103 11 50	Durum wheat meal : — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in all other cases	— —
1103 11 90	Common wheat groats and spelt : — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in all other cases	— —

(1) The quantities of semi-processed products used must be multiplied, as the case may be, by the coefficients shown in Annex I to Commission Regulation (EEC) No 1620/93 (OJ No L 155, 26. 6. 1993, p. 29).

(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 syrups of CN codes 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 October 1993

authorizing the Kingdom of Belgium to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/555/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 2 June 1993 and received by the Commission on 30 June 1993, the Kingdom of Belgium requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 14 July 1993 of the request made by the Kingdom of Belgium;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to

the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not established in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Kingdom of Belgium is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Belgium who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Kingdom of Belgium is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;
3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,

- mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;

2. in the case of supplies of services referred to in Article 2 (2):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Kingdom of Belgium.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the Kingdom of Denmark to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/556/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance ;

Whereas, by letter dated 19 May 1993 and received by the Commission on 30 June 1993, the Kingdom of Denmark requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC ;

Whereas the other Member States were informed on 14 July 1993 of the request made by the Kingdom of Denmark ;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC ⁽²⁾ and 86/560/EEC ⁽³⁾ ;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services ;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund ;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance ;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution ;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Kingdom of Denmark is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Denmark who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Kingdom of Denmark is authorized to exempt :

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC ;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC ;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Kingdom of Denmark.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the French Republic to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/557/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 19 July 1993 and received by the Commission on 3 August 1993, the French Republic requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 18 August 1993 of the request made by the French Republic;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the French Republic is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than France who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the French Republic is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;

(¹) OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

(²) OJ No L 331, 27. 12. 1979, p. 11.

(³) OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the French Republic.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing Ireland to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/558/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 11 May 1993 and received by the Commission on 30 June 1993, Ireland requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 14 July 1993 of the request made by Ireland;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, Ireland is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Ireland who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, Ireland is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to Ireland.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the Italian Republic to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/559/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance ;

Whereas, by letter dated 22 May 1993 and received by the Commission on 30 June 1993, the Italian Republic requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC ;

Whereas the other Member States were informed on 14 July 1993 of the request made by the Italian Republic ;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC ⁽²⁾ and 86/560/EEC ⁽³⁾ ;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services ;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund ;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance ;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution ;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Italian Republic is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Italy who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Italian Republic is authorized to exempt :

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC ;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC ;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Italian Republic.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the Grand Duchy of Luxembourg to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/560/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 4 June 1993 and received by the Commission on 30 June 1993, the Grand Duchy of Luxembourg requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 14 July 1993 of the request made by the Grand Duchy of Luxembourg;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Grand Duchy of Luxembourg is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Luxembourg who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Grand Duchy of Luxembourg is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
 - provide proof that the transport services are directly linked to an intra-Community transport within the

meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
 - provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/561/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance ;

Whereas, by letter dated 8 June 1993 and received by the Commission on 30 June 1993, the Kingdom of the Netherlands requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC ;

Whereas the other Member States were informed on 14 July 1993 of the request made by the Kingdom of the Netherlands ;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾ ;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services ;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund ;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance ;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution ;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Kingdom of the Netherlands is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than the Netherlands who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Kingdom of the Netherlands is authorized to exempt :

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC ;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC ;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
 - provide proof that the transport services are directly linked to an intra-Community transport within the

meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Kingdom of the Netherlands.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the Portuguese Republic to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/562/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 28 July 1993 and received by the Commission on 2 September 1993, the Portuguese Republic requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 13 September 1993 of the request made by the Portuguese Republic;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the Portuguese Republic is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than Portugal who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the Portuguese Republic is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):

- be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
- mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;

2. in the case of supplies of services referred to in Article 2 (2):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the Portuguese Republic.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COUNCIL DECISION

of 25 October 1993

authorizing the United Kingdom to apply a measure derogating from Article 2 (1) and Article 17 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(93/563/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas, by letter dated 10 May 1993 and received by the Commission on 22 June 1993, the United Kingdom requested authorization to introduce a measure for derogation from Article 17 of Directive 77/388/EEC;

Whereas the other Member States were informed on 14 July 1993 of the request made by the United Kingdom;

Whereas implementation of the transitional VAT arrangements leads to VAT being charged on certain work on movable tangible property and certain services relating to the transport of goods and ancillary transport activities at the place where these services are supplied, irrespective of the place where the taxable person to whom these services are supplied is able to exercise his rights of deduction, and whereas this results in growing use of the refund procedures provided for by Directives 79/1072/EEC⁽²⁾ and 86/560/EEC⁽³⁾;

Whereas the increasing use of the refund procedures provided for by Directives 79/1072/EEC and 86/560/EEC may impede the development of intra-Community trade in certain services;

Whereas the measure for derogation in question aims to introduce a simplification consisting in the exemption of certain services supplied to taxable persons not estab-

lished in the territory of the country but identified in the Community, for which these taxable persons would in any event be entitled to a refund;

Whereas certain requirements should be imposed on taxable persons with a view to preventing tax evasion or avoidance;

Whereas it is desirable for this derogation to be limited to the time necessary to enable the Council, acting on a proposal from the Commission, to adopt a definitive solution;

Whereas the measure for derogation in question has no effect on the European Communities' own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 (1) of Directive 77/388/EEC, the United Kingdom is hereby authorized to exempt the supply of services referred to in Article 2 rendered to taxable persons identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC and in a Member State other than the United Kingdom who would have qualified in accordance with Directives 79/1072/EEC and 86/560/EEC for a refund of the tax which would have been due had these services been taxed.

Article 2

In the circumstances provided for in Article 1, the United Kingdom is authorized to exempt:

1. the supply of services referred to in the third and fourth indents of Article 9 (2) (c) of Directive 77/388/EEC but excluding the supply of services exempted in accordance with Articles 14, 15 and 16 of Directive 77/388/EEC;
2. the transport services located in the territory of the country in accordance with Article 9 (2) (b) of Directive 77/388/EEC, directly linked to the intra-Community transport of goods as defined in Article 28b (C) (1) of Directive 77/388/EEC;

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 11.

⁽³⁾ OJ No L 326, 21. 11. 1986, p. 40.

3. ancillary transport activities within the meaning of the second indent of Article 9 (2) (c) of Directive 77/388/EEC effected within the territory of the country related to the transport services covered by paragraph 2 above.

Article 3

By way of derogation from Article 17 of Directive 77/388/EEC, the services referred to in Article 2 and supplied with exemption from tax in the circumstances laid down in Article 1 shall be eligible for deduction of input tax.

Article 4

To apply the exemption provided for in Article 1, the supplier of the services shall in particular:

1. in the case of the supplies of services referred to in Article 2 (1):
 - be in possession of a certificate establishing that the person to whom the services have been supplied is a taxable person and issued, as appropriate, in the form laid down by Directives 79/1072/EEC or 86/560/EEC,
 - mention, on his invoice, the grounds for exemption and the identification number by which the customer is identified in accordance with Article 22 (1) (c), (d) and (e) of Directive 77/388/EEC, and under which the service has been rendered to him;
2. in the case of supplies of services referred to in Article 2 (2):
 - satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,

- provide proof that the transport services are directly linked to an intra-Community transport within the meaning of Article 28b (C) (1) of Directive 77/388/EEC;

3. in the case of supplies of services referred to in Article 2 (3):

- satisfy the requirements referred to in the second indent of point 1 and be in possession of a declaration in which the person to whom the services have been supplied acknowledges that he fulfils the conditions referred to in Article 1,
- provide proof that the ancillary transport activities are directly linked to the transport services which are referred to in Article 2 (2).

Article 5

The Council, acting unanimously on a proposal that the Commission will make as soon as feasible, shall adopt, after consultation of the European Parliament, before 31 December 1994, a modification to Directive 77/388/EEC which covers the services mentioned in this Decision.

The derogations provided for in this Decision shall cease to have effect on the date which the Council determines when it adopts the modification to Directive 77/388/EEC but not later than 31 December 1994.

Article 6

This Decision is addressed to the United Kingdom.

Done at Luxembourg, 25 October 1993.

For the Council

The President

Ph. MAYSTADT

COMMISSION

COMMISSION DECISION

of 22 July 1993

concerning aid the Italian Government intends to grant to Cartiere del Garda

(Only the Italian text is authentic)

(93/564/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, in accordance with the abovementioned Article, given notice to the parties concerned to submit their comments to it,

Whereas :

I

Provincial law No 7 dated 8 April 1991 ⁽¹⁾ of the Autonomous Province of Trento (PAT) provides, at Article 1, for financial interventions to safeguard the environment and to reorganize land in the productive sector. The provincial authorities can thereby provide grants to existing companies in areas indicated by the PAT for a complete or partial transfer of their activities. Such grants can also be provided in the case of existing companies that wish to expand in areas indicated by the PAT. According to Article 1 (1) of the law, the grants will cover the additional cost incurred by the company for the transfer. If it should be particularly difficult to identify that additional cost, Article 1 (2) provides the option of a lump-sum grant of up to 30 % of the total cost of investment in fixed assets, with the exception of the cost of land.

Provincial law No 7/91 was not notified to the Commission pursuant to Article 93 (3) of the Treaty before it was

adopted. The Commission was, however, informed of the intention of the provincial authorities to apply the law for the first time in favour of the paper manufacturer Cartiere del Garda, located in Riva del Garda.

Cartiere del Garda in its present state has the capacity to manufacture annually 180 000 tonnes of middle-weight or heavy coated printing paper ; it has some 600 employees. The company, which belongs to the German Bertelsmann publishing group, is today a relatively modern and profitable company. But in order to remain so in the years to come, it needs to double its productive capacity by installing an additional machine.

For this expansion the company possesses 70 000 m² of land adjacent to its present site. This land, which belonged to the former Atlas Holzwerke, was bought by Cartiere del Garda eight years ago. According to the provincial urban plans and the municipal plan of Riva, this land is earmarked for productive and industrial activities.

The provincial authorities would, however, prefer that the expansion take place not in Riva del Garda but rather in Mori, 20 km away. Riva del Garda is popular with tourists and additional industrial activities there would not improve this town's touristic attraction but rather impair its environmental situation.

If Cartiere del Garda should decide to install its new machine in Mori, whilst its present plant in Riva remained as it is for the rest of its useful life, this choice would entail additional investment and operating cost when compared with an expansion in Riva. The additional investments are caused by the differences between a greenfield site (Mori) and a brownfield site (Riva), the additional operating cost being due to additional personnel and transport between the two sites if Mori is chosen.

⁽¹⁾ Legge provinciale 8 aprile 1991, n. 7 'Provvedimenti in materia di armonizzazione dello sviluppo produttivo agli obiettivi ambientali e di tutela della qualità e dell'ambiente di lavoro' in *Bollettino Ufficiale della Regione Autonoma Trentino — Alto Adige*, 16 aprile 1991, n. 17.

The PAT intends to compensate the additional investment cost at Mori if Cartiere del Garda should choose that site, but would not compensate the additional operating cost. The legal basis for this compensation would be Article 1 of Provincial law No 7/91.

II

By letter dated 11 December 1992, registered on 15 December, the Commission was informed of the intention of the PAT to apply Article 1 of Provincial law No 7/91 in favour of Cartiere del Garda's expansion project in Mori. Additional information was provided by letter dated 20 January 1993. Information had previously been submitted on the law and on this first project by the provincial authorities by letter dated 15 June 1992, in a bilateral meeting held on 2 July 1992 and by letter dated 12 November 1992. The beneficiary company and the group to which it belongs had submitted information in a bilateral meeting held on 9 November and by letter dated 9 December 1992.

Although it had never approved Provincial law No 7/91 as such, the Commission considered that the Italian Government could notify a particular application of that law pursuant to Article 93 (3) of the Treaty, in the same way as it might notify an *ad hoc* aid. On the basis of the information made available to it, the Commission held the opinion that the intervention proposed by the PAT in favour of Cartiere del Garda could constitute aid, as it would allow the company to invest at Mori without having to bear all the cost thereof. Cartiere del Garda had had a study commissioned in order to identify and quantify this additional cost. The cost had then been investigated by the Mediocredito bank on behalf of the PAT. Whereas Cartiere del Garda arrived at an extra investment cost of Lit 316 billion and an extra operating cost in the first five years of Lit 197 billion, the PAT calculated the extra investment cost at Lit 173 377 million and operating cost at Lit 148 560 million. In view of the uncertainties in identifying the additional cost, the PAT considered using the option offered by Provincial law No 7/91 of paying as a lump sum 30 % of total investment cost at Mori, which would amount to Lit 186 billion.

The Commission also held the opinion that this presumed aid of up to Lit 186 billion would be likely to distort competition and to affect trade between Member States within the meaning of Article 92 (1) of the Treaty.

The Commission furthermore doubted whether any of the derogations set out in Article 92 could apply to the aid. It noted that neither Riva nor Mori is located in an area

eligible for regional assistance pursuant to Article 92 (3) (a) or (c) and that the aid could be potentially anti-cohesive by excluding other potential sites in assisted areas from the investment in question. The Commission also noted that an aid for an expansion of capacity does not meet the conditions set out in the Community framework for environmental aids, which is based on the derogation provided for in Article 92 (3) (b) of the Treaty. The Commission furthermore doubted whether the derogation provided for in Article 92 (3) (c) could apply; it doubted whether the aid was necessary to achieve the desired objective of dissuading Cartiere del Garda from making its investment at Riva, and it stressed the situation of overcapacity for coated paper in the Community.

The Commission therefore decided to initiate the procedure provided for in Article 93 (2) of the Treaty; by letter dated 10 February 1993 the Italian Government was informed of this decision and invited to submit its observations. The other Member States and other interested parties were also given notice to submit their observations⁽¹⁾.

III

The Italian Government submitted observations under the procedure by letter dated 11 March 1993 and by telex dated 22 April 1993. The Italian Government once more set out the reasons why the provincial authorities proposed to intervene financially in order to induce Cartiere del Garda to invest at Mori rather than in Riva. It also stated the willingness of the provincial authorities not to use the opportunity under Provincial law No 7/91 to award a lump-sum grant of 30 % of total investment cost, but rather only to pay the additional investment cost that had been identified in the Mediocredito study; the additional operating cost entailed by a decision in favour of Mori would not be paid by the PAT. The Italian Government claimed that the payment of additional investment cost would constitute a partial compensation of disadvantages taken on by Cartiere del Garda, rather than an aid to that company. It also claimed that the company had lost at least three years in carrying out its investment due to the bureaucratic and legal difficulties entailed by the possible decision in favour of Mori. According to the Italian Government, Cartiere del Garda would carry out its investment at Riva if the PAT were not enabled to intervene financially in favour of the alternative at Mori and the company would have every right to do so; the

⁽¹⁾ OJ No C 75, 17. 3. 1993, p. 7.

PAT has no instruments to oppose this choice. Any attempt to modify retroactively the standards with which Cartiere del Garda must comply at Riva could be challenged by that company. The Italian Government furthermore repeated the conclusion of an environmental impact study concerning the investment of Cartiere del Garda, which was negative neither for Mori nor for Riva; this study had previously been submitted to the Commission.

In reply to a question the Commission had put in its letter dated 10 February 1993 concerning the other means by which the municipality of Riva might dissuade Cartiere del Garda from investing at Riva, the Italian Government stated that it would not be legally and politically justifiable to change at that stage the industrial designation of the land owned by Cartiere del Garda in Riva. The Italian Government also stressed that the PAT wished to achieve two goals through its intervention: to protect the environment, while at the same time maintaining the planned investment in the same area, and to do so without distorting competition because there would be no advantage to the company in question. The intervention would furthermore have no effect on capacities in the paper industry, because Cartiere del Garda would in any case carry out its investment either at Riva or at Mori.

In reply to another question concerning the land Cartiere del Garda possesses in Riva, if the company should decide to construct its new paper-making machine in Mori, the Italian Government stated that the land would then be ceded by the company to the PAT. The land would lose its industrial designation and the PAT would see to it that the company would not profit financially from the sale.

Finally, the Italian Government stated its willingness to limit the use of Provincial law No 7/91 to the one case of Cartiere del Garda, if the Commission should have insurmountable objections to this law. The Italian Government believed the law to be an interesting and promising experiment in environmentally motivated industrial reconversion.

The case was also discussed bilaterally on 8 March and 11 June 1993.

Within the framework of the procedure, observations were also submitted by the United Kingdom Government, the French Government and the German Government, by the largest United Kingdom manufacturer of heavy coated

printing paper and by the Austrian paper industry federation.

Those observations were submitted to the Italian Government for its comments by letter dated 11 May 1993. Such comments were provided by letter dated 25 May 1993.

IV

A payment by public authorities to a company in order to cover part of the investment cost of that company at a given site constitutes aid to that company within the meaning of Article 92 (1) of the Treaty. It is irrelevant to this appraisal whether the investment cost at some other site would have been lower and the payment only amounts to the difference between the investment cost at those two sites. The assessment that such payments constitute aid is in line with the well-established practice of the Commission concerning payments to companies which accept additional cost by investing in less-favoured regions or which assume additional investment cost in order to modify their existing installations for environmental reasons.

Consequently, the intention of the PAT to pay Lit 173 377 million (ECU 103 million as at the date of this Decision) to Cartiere del Garda if that company should decide to invest at Mori rather than at Riva constitutes aid to that company, even though this sum only represents the additional investment cost which an investment at Mori would entail. The company is favoured by that aid, because it is enabled to carry out its investment at Mori without having to bear all the cost thereof.

There is competition between manufacturers of paper and their products are traded between Member States. According to the information submitted to the Commission, Cartiere del Garda at present produces some 175 000 tonnes annually of medium-weight and heavy coated wood-containing and wood-free printing paper. The installation of an additional paper-making machine at Mori or at Riva would double the company's productive capacity from 180-200 000 tonnes per year to some 400 000 tonnes per year.

Italy exported 532 320 tonnes of coated paper and paper-board (CN code 4810) to other Member States in 1990, 572 877 tonnes in 1991 and 596 278 tonnes in 1992, while the corresponding imports from other Member States amounted to 200 531, 195 586 and 238 535 tonnes.

Cartiere del Garda participates in intra-Community trade by exporting part of its production to other Member States. In 1990 Cartiere del Garda exported 39 300 tonnes of wood-free coated paper to other Member States, notably France, Germany and Spain; the exports accounted for one-third of its production of this type of paper. In 1991, 41 100 tonnes were exported to other Member States and in 1992, 45 000 tonnes. Cartiere del Garda's production of wood-free coated paper represented some 3,4 % of total Community production of that type of paper in 1990 to 1992. The data provided to the Commission under the procedure concerns only wood-free paper and not Cartiere del Garda's production of wood-containing paper.

Financial aid to companies strengthens their position as compared with others that are competing with them in the Community. Where this occurs, such aid must be deemed to affect competition with such other undertakings.

Article 92 (1) of the Treaty lays down the principle that aid having certain characteristics, which it specifies, is incompatible with the common market.

The derogations from that principle which are set out in Article 92 (2) of the Treaty are inapplicable in this instance, given the nature and objectives of the aid, and were not in any case invoked by the Italian Government.

V

Article 92 (3) of the Treaty specifies the aid which may be considered to be compatible with the common market. Compatibility with the Treaty must be viewed in the context of the Community and not of a single Member State. So as to maintain the proper functioning of the common market and take account of the principles laid down in Article 3 (f) of the Treaty, the exceptions to the principle of Article 92 (1) which are set out in Article 92 (3) must be interpreted strictly in examining any aid scheme or any individual aid measure.

In particular, the derogations may be applied only if the Commission finds that, if the aid were not granted, market forces alone would not be sufficient to induce the recipients to act in such a way as to achieve one of the objectives pursued.

Applying the derogations to cases which do not contribute to such an objective, or where the aid is not necessary for that purpose, would mean conferring undue advantages on the industries or undertakings of certain

Member States and affecting trading conditions between Member States and distorting competition, without any justification based on the common interest referred to in Article 92 (3).

With regard to the derogations provided for in Article 92 (3) (a) and (c) for aid to promote or facilitate the development of certain regions, it should be noted that the standard of living in the PAT is not abnormally low, nor does it suffer from serious underemployment within the meaning of the derogation laid down in Article 92 (3) (a). Neither are Riva and Mori located in an assisted area pursuant to the derogation in Article 92 (3) (c).

With regard to the derogations provided for in Article 92 (3) (b), it is to be noted that the aid is not intended to remedy a serious disturbance in the Italian economy, nor has the Italian Government claimed that this was the case.

The other derogation provided for in Article 92 (3) (b) concerns aid to promote the execution of an important project of common European interest. In the Community framework on State aid in environmental matters, of which the Member States were informed by letters dated 7 November 1974 and 23 March 1987, the Commission allowed for the possibility that such aid could qualify for the derogation provided for in Article 92 (3) (b), provided that it was granted to finance additional adaptation investments in existing plant, other than investments leading to increased production capacity.

Given that the investment to be made by Cartiere del Garda consists of the building of an additional paper-making machine and therefore concerns solely an increase of capacity, any aid for this investment does not fulfil the criteria to be considered eligible for the derogation provided for in Article 92 (3) (b). The Commission notes in this context, however, that the environmental aid framework allows for the possibility that aid not fulfilling the requirements of the framework may be found to be compatible with the common market on the basis of Article 92 (3) (c).

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

The Commission notes that the Italian Government's main argument in favour of the aid to Cartiere del Garda is of an environmental nature. The Commission also

notes that the investment which this company intends to carry out will comply with existing environmental legislation, whether it takes place at Riva or at Mori. The additional paper-making machine will however be more of a nuisance at Riva than at Mori, in terms of pollution of air and water and in terms of traffic and noise. The aid proposed by the PAT in order to induce the company to invest at Mori rather than at Riva therefore does serve an environmental purpose, although other motivations for it exist as well, such as the desire to keep the investment in question in the area and physical planning considerations.

Article 130r (2) of the Treaty stipulates that action by the Community relating to the environment shall be based on the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay. Environmental protection requirements should be a component of the Community's other policies.

In applying these principles to the case of Cartiere del Garda, the Commission notes that the intervention of the PAT is preventive and rectifies damage at source. Regarding the third principle, however, the Commission considers that the intervention would not lead to a situation where the polluter pays. Indeed, the provincial authorities intend to compensate the total additional investment cost incurred by the company.

It is true that the company also expects additional operating costs if it should produce at Mori as well as at Riva and that this cost will not be compensated. But when taking a longer-term view, a choice in favour of Mori may also be beneficial to the company; it may decide to transfer its existing plant at Riva to Mori as well, at the end of its useful life, and the site at Mori is not only closer to the main motorway but also offers opportunities for future expansion which would not be available at Riva.

The Italian Government also claimed that Cartiere del Garda had lost considerable sums of money because its investment had been delayed for three years due to the difficult decision-making process. The Commission notes that the cost due to delays in carrying out the investment will have to be borne by the company regardless of where it invests and can therefore not be linked to the additional investment cost at Mori or the operating cost entailed by having plants at two different locations.

The Commission therefore concludes that the proposed aid to Cartiere del Garda does not meet the 'polluter pays principle' contained in Article 130r (2) of the Treaty.

In its letter dated 10 February 1993, in which it informed the Italian Government of its decision to open the procedure pursuant to Article 93 (2) of the Treaty, the Commission asked to be informed of other possibilities the municipal and provincial authorities might have in order to dissuade the company from investing at Riva, including the possibility of refusing permission for this investment on environmental grounds or for reasons of urban or provincial planning. According to the information provided by the Italian Government under the procedure, the PAT has no other means at its disposal than State aid to prevent the company's investment at Riva.

As for the municipality of Riva, the Italian Government stated that the area Cartiere del Garda owns at Riva has been destined for industrial purposes and that it would be neither legally nor politically correct to modify such determination now by changing the rules during the game.

This reply fails to convince the Commission. The Italian Government has failed to demonstrate that there never was and that there is not at present an option open to the municipality of Riva of altering the designation of the zone in which the site in question is located. This might have been politically difficult in view of the important number of jobs at stake — the company will employ 784 if the investment takes place at Riva and 968 if the investment is realized at Mori — but it would not have been absolutely impossible. Rather, it would seem that the municipality of Riva believes that the advantages of the investment in terms of employment outweigh its environmental disadvantages; the PAT, which perhaps also has as broader view of the development of the municipal area in a wider context such as the development of tourism at Riva and of industry at Mori, has a different opinion but is unable to prevent the investment at Riva by means other than aid. The different powers involved and the divergent opinions of authorities in a Member State cannot be taken into account by the Commission to justify State aid given that none of the derogations mentioned in Article 92 provides for that possibility.

The Commission concludes that the Italian Government has failed to demonstrate that the aid is an absolute necessity to avoid investment by Cartiere del Garda at Riva del Garda.

If the zone at Riva in which Cartiere del Garda bought its site had lost its industrial designation, the company would have been forced to choose an alternative location for its investment, which it needs to carry out in order to retain its longer-term profitability. Without an aid in the case of an investment at Mori, the company would have been completely free to choose between all potential sites available not only in the PAT, but in other regions of Italy and other countries as well. The Commission notes in this context that it allows investment aid in certain regions of the Community on the basis of the derogations provided for in Article 92 (3) (a) and (c) and that those regions might have stood the chance of being chosen for this investment, once it could move freely.

Under the procedure the Italian Government rejected this reasoning, by stating that the company had already made up its mind to either invest at Riva or at Mori and that consequently other potential sites had already been excluded.

This argument cannot convince the Commission. In the situation created the municipal and provincial authorities, the choice of the company is indeed realistically limited to the cheaper solution at Riva and the aided solution at Mori. If, however, the site at Riva had been excluded for environmental reasons and no aid had been available for an investment at Mori, Cartiere del Garda might well have taken into consideration other potential sites, including those where regional considerations allowed for investment aid.

The Commission concludes that the Italian Government's proposal to award aid for Cartiere del Garda might well have taken into consideration other potential sites, including those where regional considerations allowed for investment aid.

The Commission concludes that the Italian Government's proposal to award aid for Cartiere del Garda's investment at Mori runs counter to regional policy in the Community and that it is potentially hostile to economic and social cohesion.

The Italian Government also stated under the procedure that without the possibility of investing at Riva and without the intervention of the PAT at Mori, the company would be unable to raise on the capital market the money it needs for its investment.

The Commission notes that in that event Cartiere del Garda would have found itself in the same position as any competitor who wishes to increase capacity and who does not have the land or the permits needed simply to expand his present plant. Whether the money needed for the more costly construction of a second plant can be procured depends on expected market developments, but certainly also on the financial position and past performance of the investor. In this context the Commission notes that Cartiere del Garda, according to the annual

reports of the Bertelsmann group to which it belongs, returned very good results in 1990/91, although operating in a more difficult market. In 1991/92 the results of the company were described as 'again excellent' and 'very gratifying', and this despite 'an extremely tough paper market'. Also taking into account the very favourable results of the Bertelsmann group itself, the Commission considers that the company could well have found the funds necessary for its investment at sites other than Riva without the financial assistance of the PAT.

Finally, as regards the sectoral impact of the aid, and notably the question whether the aid is likely to facilitate the development of the sector without adversely affecting trading conditions to an extent contrary to the common interest, the Commission notes that it also raised this matter in its letter dated 10 February 1993, in which it informed the Italian Government of its decision to open proceedings pursuant to Article 93 (2) of the Treaty.

The Italian Government stated under the procedure that the financial intervention by the PAT in favour of the investment at Mori would have no effect on production capacity, because without it the investment would take place anyway, albeit at Riva. The company had decided to make the investment on the basis of its entrepreneurial responsibilities, as had several of its competitors. The Commission was provided with a list of eight of those competitors in the Community and in EFTA countries who had started up new capacity in 1991/92.

The Commission agrees with the Italian Government that it is the entrepreneur who should decide whether to invest in order to increase capacity or not. This decision should as a matter of principle not be influenced by State aid. As has been set out above, the Italian authorities could have prevented the investment from taking place at Riva for environmental reasons by other means granting aid at Mori. In that case the company, as described in the preceding paragraph, would have faced the choice between various sites and, indeed, the choice as to whether to carry out its investment at all, in view of the higher investment cost. The aid the Italian Government proposes to grant at Mori not only eliminates other potential sites for the investment but also facilitates the choice whether to invest at all in a difficult period, as described in the annual reports of the group to which Cartiere del Garda belongs. Given that the additional production which the investment will create will be partly exported to other Member States, the aid the PAT intends to provide for the investment at Mori will not facilitate the development of the sector without adversely affecting trading conditions to an extent contrary to the common interest. This conclusion is not altered by the expectation of the Italian Government that the rate of growth of Cartiere del Garda's sales between 1989 and 1997 will only slightly exceed the rate of growth of expected consumption of the type of paper in question in the Community.

Finally, the Commission has also taken note of the Italian Government's contention that the aid it proposes to grant to Cartiere del Garda is similar to an aid in favour of a manufacturer of newsprint in the United Kingdom, SCA Aylesford, to which the Commission did not object.

The Commission would firstly point out that the compatibility with the common market of an aid must be judged in isolation, on the basis of Article 92 of the Treaty, and not on the basis of previous decisions of the Commission concerning aid to other companies. The Commission also disagrees that the proposed aid to Cartiere del Garda is similar to the aid that the Commission accepted in December 1992 in favour of SCA Aylesford ⁽¹⁾. That company intended to expand its production of newsprint, for which exclusively waste paper would be used as a raw material; the new and untested technology in the investment made it more than a simple modernization and expansion project. No information has been provided to the Commission that the investment of Cartiere del Garda involves similar risks regarding raw material, technology and commercialization. Because of these risks, the aid of the United Kingdom authorities was necessary for the investment to take place at all; other sites had been taken into consideration by SCA, but they presented higher risks which outweighed any assistance offered there. In the case of Cartiere del Garda however, the aid is not necessary for the investment to take place at all; it is only necessary for the investment to take place at Mori. In the case of SCA Aylesford, the Commission took into consideration that the proposed aid would be outweighed by the expected savings of local authorities on landfill, due to the amount of waste paper collected by SCA, for its additional production. This feature is also absent from the proposal of the PAT. The approval of the aid to SCA Aylesford was also motivated by the peculiarities of trade and competition in the newsprint sector, which limited the effect of the aid on trading conditions between Member States.

Finally, the Commission notes that the aid to SCA of £ 20 million represented 8 % of this company's invest-

ment at Aylesford in gross terms, whereas the aid of Lit 173 billion the PAT proposes to grant to Cartiere del Garda represents 27 % or more of that company's investment at Mori. For all those reasons, the Commission does not believe that for the sake of consistency its decision to approve the aid to SCA Aylesford should induce it to approve the proposed aid to Cartiere del Garda as well.

On the contrary, the Commission has repeatedly taken decisions against aid to investments that create new capacity in the paper sector in unassisted areas ⁽²⁾.

Consequently, the aid proposed by the Italian Government does not fulfil the conditions for a derogation pursuant to Article 92(3) of the EEC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Italy shall not implement the plan of the authorities of the Autonomous Province of Trento to provide aid of Lit 173 377 million to Cartiere del Garda for investments to be carried out at Mori.

Article 2

Italy shall inform the Commission, within two months of the date of notification of this Decision, of the measures taken to comply therewith.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 July 1993.

For the Commission

Karel VAN MIERT

Vice-President

⁽¹⁾ OJ No C 46, 18. 2. 1993, p. 5.

⁽²⁾ OJ No L 156, 20. 6. 1991, p. 39.

COMMISSION OPINION**of 4 November 1993****concerning the application of Article 4 (2) of Council Directive 91/670/EEC on mutual acceptance of personnel licences for the exercise of functions in civil aviation****Equivalence of a Dutch CPL (B3) and a German ATPL (A2) licence****(Only the Dutch text is authentic)****(93/565/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive No 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation⁽¹⁾, and in particular Article 4 (2) thereof,

Having regard to the request of the Dutch Government,

Having requested the Member States involved to submit their pilot training schemes and programmes,

Whereas

- (1) By letter of 15 April 1993, No 630086, registered by the Commission on 20 April 1993, the Dutch Government requested the Commission, on the basis of Article 4 (2) of Directive 91/670/EEC to opine on the mutual acceptability of a Dutch CPL (B3) licence and a German ATPL (A2) licence issued by the respective Civil Aviation Authorities.
- (2) Directive 91/670/EEC requires a Member State to accept, without undue delay or additional tests, any license issued by another Member State together with privileges and certificates pertaining thereto. Licences issued by another Member State of the Community can be accepted on the basis of either equivalence (Article 4 (1)-(4)) or experience (Article 4 (5)). Article 4 (1) provides that the requirement of acceptance shall apply where a license issued by another Member State is based on requirements which are equivalent to those of the host Member State. According to Article 4 (2) (a) of the Directive, any Member State may ask the Commission for an opinion on the equivalence of a license, presented to it for acceptance, within three weeks of receiving the request.
- (3) Pursuant to the Dutch request the Commission wrote to the German and Dutch Governments on 13 and 17 May 1993, respectively, requesting full details of the requirements for the issue of

commercial pilot licences and air transport pilot licences in their respective countries. The German Government's transmission of the information was registered by the Commission on 24 June 1993 and the Dutch Government's response was communicated by letter of 26 July 1993 registered by the Commission on 30 July 1993. In view of the delays encountered to gather the relevant information the Commission informed the Dutch Government, by letter of 28 June 1993, No 72321, that the two months deadline foreseen in the Directive would only start to run once the Commission had received all the necessary information to undertake the examination. The Commission, by letter of 23 September 1993 to the Dutch authorities, sought a one month extension of the consultation procedure till 29 October 1993.

- (4) As regards pilots, the fundamental principles of free movement of persons and freedom of establishment and to provide services, enshrined in Articles 48, 52 and 59 of the Treaty, have been implemented by virtue of Article 3 (1) of the Directive⁽²⁾. That Article provides for mutual acceptance of pilot licenses.

Nevertheless, Article 4 of the Directive makes the mutual acceptance of those licences subject to a possible procedure of verification of equivalence between the requirements of the host Member State and the issuing Member State when reasonable doubts as to the equivalence of the licenses concerned are raised. Article 4 thereby aims at ensuring the safety of air transport services, to which explicit reference is made in the sixth recital of the Directive. However, use of the procedure must not go beyond what is strictly necessary for achieving the overall objective of safety of air operations and must, therefore, not prejudice the effective exercise of the abovementioned fundamental freedoms of the Treaty.

⁽¹⁾ OJ No 373, 31. 12. 1991, p. 12.

⁽²⁾ See also Judgments of the Court of Justice in the cases of Heylens of 15 October 1987, Case 222/86 — Vlassopoulou of 7 May 1991, case C-340/89 — Kraus of 31 March 1993, Case C-19/92.

- (5) The Commission has examined the requirements for the respective licences and notes :
- an ATPL (Air Transport Pilot Licence) authorizes a holder to exercise the function of pilot in command on any airplane whilst the Commercial Pilot Licence (CPL + IR) authorizes a holder to exercise the function of co-pilot on all airplanes and pilot in command on airplanes certificated for single-pilot operation,
 - Germany issues two types of Air Transport Pilot Licence. The ATPL (A2) type is limited to airplanes with a maximum weight of 5 700 kg or 20 tonnes,
 - Germany and the Netherlands link the Instrument Rating to the type of aircraft on which instrument flight skills are demonstrated,
 - a German ATPL (A2) is more comprehensive than a Dutch CPL (B3) and as such, in practice, can be considered as equivalent. The reverse comparison cannot be considered as valid.
- (6) On the basis of the available information, having regard to the principles and analysis outlined above

and the internationally accepted standards of ICAO regarding air safety,

HAS ADOPTED THE FOLLOWING OPINIONS:

Article 1

The necessary skills and technical knowledge required for the issue of a Dutch CPL (B3) are more than fulfilled by the German requirements for the issue of an ATPL (A2). Therefore the German ATPL (A2) should be considered as acceptable.

Article 2

The present opinion is addressed to the Kingdom of the Netherlands.

Done at Brussels, 4 November 1993.

For the Commission

Abel MATUTES

Member of the Commission

COMMISSION DECISION

of 4 November 1993

concerning certain protection measures relating to classical swine fever in Germany and replacing Decision 93/539/EEC

(93/566/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁽¹⁾, as last amended by Directive 92/118/EEC⁽²⁾, and in particular Article 10 (4) thereof,

Whereas as a result of outbreaks of classical swine fever in different parts of Germany, the Commission adopted Decision 93/539/EEC of 20 October 1993 concerning certain protection measures relating to classical swine fever in Germany and repealing Decision 93/364/EEC⁽³⁾, as amended by Decision 93/553/EEC⁽⁴⁾;

Whereas outbreaks of classical swine fever have re-occurred in different parts of Germany; whereas some of the outbreaks have occurred in parts with a high density of pigs;

Whereas it appears that repeated cases are caused by spread from feral pigs;

Whereas in view of the trade in live pigs, fresh pigmeat and certain meat-based products these outbreaks are liable to endanger the herds of other Member States;

Whereas, since it is possible to identify geographically limited areas which presents a particular risk, the restrictions on trade can be applied on a regional basis;

Whereas in accordance with the provisions of Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽⁵⁾, as last amended by Decision 93/384/EEC⁽⁶⁾,

Member States shall ensure that swill for the feeding of pigs must be heat-treated so as to ensure the destruction of the classical swine fever virus;

Whereas Germany has taken measures in accordance with Directive 80/217/EEC and, furthermore, has introduced further measures within the affected areas;

Whereas, however, in order to prevent the spread of disease to other parts of its territory, it is necessary that Germany should introduce appropriate measures of an equivalent level;

Whereas it appears essential to launch an information campaign concerning swill feeding and reinforce measures to eradicate swine fever in feral pigs;

Whereas it is necessary to implement national measures, including those given in Annex III, to guarantee the efficient implementation of the Decision;

Whereas it is necessary to establish a national well-equipped crisis unit which in cooperation with the veterinary authorities of the *Länder* shall collect and analyse surveillance data and participate in epidemiological investigations;

Whereas the protection measures introduced by Decision 93/539/EEC, the interest of clarity, must be repealed;

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

1. Germany shall not send to other Member States or to other parts of its territory live pigs coming from those parts of its territory described in Annex I.

2. Germany shall not send to other Member States breeding pigs and production pigs originating from a holding situated in the area outside the area described in Annex I unless the pigs:

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 29.

⁽²⁾ OJ No L 62, 15. 3. 1993, p. 49.

⁽³⁾ OJ No L 262, 21. 10. 1993, p. 67.

⁽⁴⁾ OJ No L 270, 30. 10. 1993, p. 74.

⁽⁵⁾ OJ No L 47, 21. 2. 1980, p. 11.

⁽⁶⁾ OJ No L 166, 8. 7. 1993, p. 34.

- come from a holding where no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question,
- have been subject to a test for antibodies to classical swine fever (HC virus) and found negative; this test shall be carried out in accordance with the provisions of Annex IV, point 1, of Directive 80/217/EEC within 10 days of certification,
- have undergone the clinical examination required in Directive 64/432/EEC⁽¹⁾ on the farm of origin at the time of certification, on the day of loading. The examination shall comprise all pigs and related facilities on the holding of origin. The animals shall be identified by ear tags at the holding of origin and at any assembly centre so that these can be ascertained and traced back. The means of transport shall carry an official seal.

3. Intra-Community movements of the animals referred to in paragraph 2 shall only be allowed following three days advance notification to the competent authority in the Member State of destination.

Article 2

1. Germany shall not send to other Member States and to other parts of its territory fresh pigmeat and pigmeat products obtained from pigs coming from holdings situated in parts of its territory described in Annex I.

However, it is possible under veterinary control to send meat and meat products in officially sealed means of transport to a rendering plant situated outside the area described in Annex I and included in a list submitted to the Commission.

2. Meat and meat products coming from the area described in Annex I and obtained from slaughter pigs originating from outside the area described in Annex I may leave the area under veterinary control in officially sealed means of transport.

3. The restrictions described in paragraph 1 shall not apply to meat products which have undergone one of the treatments laid down in Article 4 (1) of Council Directive 80/215/EEC of 22 January 1980 on health problems affecting intra-Community trade in meat products⁽²⁾.

Article 3

During ante-mortem inspection of pigs to be slaughtered, special attention shall be given by Germany to signs and lesions typical for classical swine fever.

⁽¹⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

⁽²⁾ OJ No L 47, 21. 2. 1980, p. 4.

Article 4

1. The health certificate provided for in Council Directive 64/432/EEC accompanying pigs sent from Germany must be completed by the following:

'Animals in accordance with Commission Decision 93/566/EC of 4 November 1993 concerning certain protection measures relating to classical swine fever in Germany.'

2. Meat consigned from Germany shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Meat conforming to Commission Decision 93/566/EC of 4 November 1993 concerning certain protection measures relating to classical swine fever in Germany.'

3. Meat products consigned from Germany shall be accompanied by a health certificate referred to in Article 3 (9) (b) (II) of Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products⁽³⁾. The certificate shall bear the following words:

'Products conforming to Commission Decision 93/566/EC of 4 November 1993 concerning certain protection measures relating to classical swine fever in Germany.'

Article 5

Germany shall carry out serological screening of pigs kept:

- (a) in the part of its territory outside the area described in Annex I for antibodies to classical swine fever virus (HC virus) in accordance with the requirements of Annex II, Chapter I;
- (b) in the area described in Annex I for antibodies of classical swine fever virus (HC virus) in accordance with the requirements of Annex II, Chapter II.

The results obtained from the screening programme accompanied by an epidemiological analysis, shall be submitted every two weeks to the Commission.

Article 6

Germany shall ensure that vehicles which have been used for the transport of pigs are cleaned and disinfected after each operation, and shall furnish proof of such disinfection.

Article 7

Measures to control and eradicate classical swine fever in feral pigs in the areas listed in Annex III, Chapter I shall include those given in Chapter II of the said Annex.

⁽³⁾ OJ No L 26, 31. 1. 1977, p. 85.

Article 8

Germany shall launch a campaign with a focus on preventing the spread of classical swine fever through the feeding of waste food (swill) to pigs. The campaign should include information on the spread of classical swine fever, disease eradication, the potential trade implications and on ways to ensure safe waste food disposal and should target pig holders and owners of restaurants and similar catering facilities.

Article 9

Germany shall establish a national crisis unit which shall carry out the following duties :

- collect data on the surveillance activities carried out by *Land* authorities,
- coordinate the measures in cases of emergency animal health problems and, in particular, the epidemiological investigation of these problems, in conjunction with the *Land* authorities.

The national crisis centre shall have sufficient resources to carry out these duties. In particular :

- staff trained in epidemiological investigation,
- data handling facilities,
- rapid communication links with *Land* and other authorities.

Article 10

The Member States shall amend the measures which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 11

The present decision shall replace Decision 93/539/EEC as amended.

Article 12

This Decision shall be reviewed before 22 November 1993 taking into consideration the evolution of the animal disease situation in Germany.

Article 13

This Decision is addressed to the Member States.

Done at Brussels, 4 November 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

1. In *Bundesland* Niedersachsen, the Kreise : Stade, Rotenburg, Harburg, Soltau-Fallingb., Lüneburg, Emsland, Cloppenburg, Vechta, Diepholz and Osnabrück.
 2. In *Bundesland* Baden-Württemberg, the Kreise : Ostalbkreis, Schwäbisch Hall, Rems-Murr, Göppingen and Heidenheim.
 3. In *Bundesland* Bayern, the Kreise, Donau-Ries, Ansbach and Ansbach-Stadt.
 4. In *Bundesland* Rheinland-Pfalz, the Kreise : Germersheim, Südliche Weinstraße and the Stadt Landau id Pfalz.
 5. In *Bundesland* Mecklenburg-Vorpommern, the Kreise : Rostock, Rostock Stadt, Ribnitz-Damgarten, Stralsund, Stralsund Stadt, Grimmen, Bad Doberan, Güstrow, Teterow, Malchin, Demmin and Greifswald.
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ANNEX II**SEROLOGICAL SCREENING FOR ANTIBODIES TO CLASSICAL SWINE FEVER (HC VIRUS)****CHAPTER I****Screening in areas outside the areas described in Annex I.**

The German authorities shall carry out a serological screening programme which samples the equivalent of 5 % of the national sow and boar populations each year (100 000 samples per annum).

The screening programme shall, where possible, make use of serum samples collected during the national programme for the eradication of Aujeszky's disease. It will also concentrate on the herds or animals most likely to be at risk from classical swine fever:

- small breeding herds near towns or on farms where sows are fattened for slaughter and may have been fed with swill,
- boars used for natural service, particularly boars used on several farms,
- herds in areas containing wild boar.
- herds in Regieringsbezirke that have recorded classical swine fever outbreaks since 1 January 1993.

CHAPTER II**Screening in areas described in Annex I.**

All herds containing breeding animals shall be screened every 60 days. Within each herd sows should be sampled at random. The numbers of sows to be tested shall be as follows:

- in small herds (up to 40 sows) a sample of 21 sows,
 - in larger herds (40 sows or more) a sample of 27 sows.
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ANNEX III

CHAPTER I

1. In *Bundesland* Niedersachsen, Regierungsbezirk Lüneburg, the Kreise : Harburg, Lüneburg, Soltau-Falingb., Uelzen.
2. In *Bundesland* Mecklenburg-Vorpommern, the Kreise : Rostock and Ribnitz-Damgarten.
3. In *Bundesland* Rheinland-Pfalz, Regierungsbezirk Rheinhessen-Pfalz, the Kreises : Pirmasens, Südliche Weinstraße and Germersheim.

CHAPTER II

1. Culling and hunting of feral pigs can only be organized with the prior consultation and approval of the competent authority and take place under its control.
 2. All feral pigs found dead or shot are subject to laboratory examination for classical swine fever. Following this sampling, the carcass shall be treated as high risk material as defined in Article 3 of Council Directive 90/667/EEC⁽¹⁾.
 3. Measures taken to reduce the population of feral pigs shall ensure that possibly infected feral pigs are not dispersed outside the area.
 4. Domestic pigs shall be confined in such a way that direct and indirect contact between them and feral pigs is impossible.
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⁽¹⁾ OJ No L 363, 27. 12. 1990, p. 51.