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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1684/95**of 10 July 1995****concerning the stopping of fishing for plaice by vessels flying the flag of Belgium**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21 (3) thereof,

Whereas Council Regulation (EC) No 3362/94 of 20 December 1994 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1995 and certain conditions under which they may be fished⁽²⁾, as last amended by Regulation (EC) No 746/95⁽³⁾, provides for plaice quotas for 1995;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission catches of plaice in the waters of ICES division III a Skagerrak by vessels flying the flag of Belgium or registered in Belgium have reached the quota

allocated for 1995; whereas Belgium has prohibited fishing for this stock as from 1 July 1995; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION :

Article 1

Catches of plaice in the waters of ICES division III a Skagerrak by vessels flying the flag of Belgium or registered in Belgium are deemed to have exhausted the quota allocated to Belgium for 1995.

Fishing for plaice in the waters of ICES division III a Skagerrak by vessels flying the flag of Belgium or registered in Belgium is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 1 July 1995.

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

Done at Brussels, 10 July 1995.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ No L 363, 31. 12. 1994, p. 1.

⁽³⁾ OJ No L 74, 1. 4. 1995, p. 1.

COMMISSION REGULATION (EC) No 1685/95**of 11 July 1995****on arrangements for issuing export licences for wine sector products and amending Regulation (EEC) No 3388/81 laying down special detailed rules in respect of import and export licences in the wine sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1544/95 ⁽²⁾, and in particular Articles 52(3) and 55(8) thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations ⁽³⁾, and in particular Article 3(1) thereof,

Whereas with effect from 1 September 1995 Regulation (EEC) No 822/87 makes presentation of an export licence with advance fixing of the refund compulsory for exportation of products on which an export refund is requested, whereas specific rules for the application of this provision in the wine sector should therefore be laid down, covering in particular the submission of applications and the information that must be given on applications and licences; whereas these rules will be complementary to Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁴⁾, as last amended by Regulation (EC) No 1199/95 ⁽⁵⁾;

Whereas Article 55(7) of Council Regulation (EEC) No 822/87 requires compliance with the obligations regarding export volumes arising from agreements concluded as a result of the Uruguay Round of trade negotiations to be ensured on the basis of export licences; whereas

precise rules should therefore be laid down on the lodging of applications and issuing of licences;

Whereas decisions on licence applications should be notified only after a reflection period enabling the Commission to assess the quantities applied for and the expenditure involved and if necessary to take particular action in regard to the applications pending;

Whereas the provisions of Commission Regulation (EEC) No 3388/81 of 27 November 1981 laying down special detailed rules in respect of import and export licences in the wine sector ⁽⁶⁾, as last amended by Regulation (EC) No 1649/95 ⁽⁷⁾, require updating to take account of the changes made, as a result of the entry into force of the Uruguay Round Agreement on Agriculture ⁽⁸⁾, in the Regulations on detailed rules of application for import and export licences and advance fixing certificates and on export refunds on agricultural products;

Whereas the security for export licences must be set at a high enough level to ensure effective operation of the new arrangements;

Whereas to manage these arrangements the Commission must have precise information on licence applications lodged and use of licences issued; whereas administrative efficiency calls for the use of a single form for communications between Member States and the Commission;

Whereas, to prevent disruption in exports when the Uruguay Round Agreement on Agriculture enters into force in the wine sector, it should be made possible for licences to be applied for and issued before that date on condition that they are usable only with effect from it;

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

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 31.

⁽³⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽⁴⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁵⁾ OJ No L 119, 30. 5. 1995, p. 4.

⁽⁶⁾ OJ No L 341, 28. 11. 1981, p. 19.

⁽⁷⁾ OJ No L 156, 7. 7. 1995, p. 29.

⁽⁸⁾ OJ No L 336, 23. 12. 1994, p. 22.

HAS ADOPTED THIS REGULATION :

Article 1

Pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, hereinafter referred to as 'the Agreement', this Regulation lays down supplementary rules applying to the issuing of export licences for wine sector products with advance fixing of the refund.

Article 2

1. Applications for export licences with advance fixing of the refund may be lodged with the competent authorities of the Member States from 1 August 1995. Irrespective of their date of issue these licences shall be valid from 1 September 1995 and this shall be indicated on the licence.

2. The product categories referred to in the second paragraph of Article 13a of Regulation (EEC) No 3719/88 are listed in Annex I hereto.

Article 3

1. Applications for export licences referred to in Article 2 may be lodged with the competent authorities from Wednesday until the following Tuesday.

2. Export licences shall be issued on the Monday following the Tuesday referred to in paragraph 1, or the next working day, provided that the Commission has not taken other specific measures in the meantime.

3. If the quantities for which licence applications have been made, as notified to the Commission on a specific day in accordance with the provisions of Article 7 (1), exceed or risk exceeding the annual commitment level provided for under the Agreement, the Commission shall set a single percentage by which the quantities applied for are accepted and/or suspend the lodging of licence applications.

4. If issuing of the licences applied for is likely to bring about the early exhaustion of the annual quantity commitment provided for under the Agreement or an overshoot of the expenditure commitments, the Commission may reject applications for which the export licences have not yet been granted and suspend the lodging of licence applications for a maximum of 10 working days, reserving the possibility of a renewal of the suspension to be decided in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

5. In cases where the quantity applied for is refused or reduced the security referred to in Article 4 (2) of Regula-

tion (EEC) No 3388/81 against the quantity refused shall be immediately released.

6. Notwithstanding paragraph 2, in the event that a single acceptance percentage of less than 85 % is set, licences shall be issued by the fifth working day at the latest following publication of that percentage in the *Official Journal of the European Communities*. Prior to issue the exporter may :

- either withdraw his application, in which case the security referred to in Article 4 (2) of Regulation (EEC) No 3388/81 shall be immediately released,
- or request the immediate issue of the licence, in which case the competent authority shall issue it without delay but no later than the fifth working day following publication of that percentage in the *Official Journal of the European Communities*.

Article 4

Regulation (EEC) No 3388/81 is hereby amended as follows :

1. In Article 2 (2), the final subparagraph is replaced by the following :

'Where the refund rate varies according to destination, the country of destination, or the zone of destination as the case may be, shall be entered in box 7 of the licence applications and the licences. At the request of the interested party, the country or zone of destination shall be replaced by another one after issue of the licence provided that the applicable refund rate is the same.'

2. Article 3 is replaced by :

Article 3

Licences shall be valid from their date of issue as defined in Article 21 (1) of Commission Regulation (EEC) No 3719/88 (*) until the end of the fourth month following that date.

(*) OJ No L 331, 2. 12. 1988, p. 1.'

3. Article 4 (2) is replaced by :

'2. The security rate for export licences shall be ECU 2 per hectolitre.'

4. In Article 5, the word 'export' is deleted.

5. Article 7 is deleted.

Article 5

Export licences issued pursuant to this Regulation shall not be transferable.

Article 6

1. Where the quantity exported exceeds the quantity indicated on the licence, the excess quantity shall not give entitlement to payment of the refund. One of the following entries shall be made in box 22 :

- Restitución válida para ... (*cantidad por la que se haya expedido el certificado*) como máximo,
- Restitutionen omfatter højst ... (*den mængde, licensen er udstedt for*),
- Erstattung gültig für höchstens ... (*Menge, für die die Lizenz erteilt wurde*),
- Επιστροφή που ισχύει για ... (*ποσότητα για την οποία εκδίδεται το πιστοποιητικό*) κατ' ανώτατο όριο,
- Refund valid for not more than ... (*quantity for which licence is issued*),
- Restitution valable pour ... (*quantité pour laquelle le certificat est délivré*) au maximum,
- Restituzione valida al massimo per ... (*quantitativo per il quale è rilasciato il titolo*),
- Restitutie voor ten hoogste ... (*hoeveelheid waarvoor het certificaat is afgegeven*),
- Restituição válida para ... (*quantidade em relação à qual é emitido o certificado*), no máximo,
- Vientituki voimassa enintään ... (*määrä, jolle todistus on annettu*) osalta,
- Bidrag som gäller för högst ... (*kvantitet för vilken licensen skall utfärdas*).

Article 7

1. Member States shall notify to the Commission :

- by fax each Wednesday or the next working day :
 - (a) the applications for export licences with advance fixing of the refund as referred to in Article 2 which were lodged between Wednesday of the preceding week and Tuesday, or the absence of applications ;
 - (b) the quantities for which export licences were issued on the preceding Monday or, as the case may be, within the interval referred to in Article 3 (6) ;
 - (c) the quantities for which licence applications have been withdrawn pursuant to Article 3 (6) during the preceding week ;
- before the 15th of each month for the previous month :

(d) the quantities for which licences have been issued but not used ;

(e) the quantities for which refunds have been granted without a licence pursuant to the final paragraph of Article 2a of Commission Regulation (EEC) No 3665/87 ⁽¹⁾.

2. In the case of notification under (a), (b) and (c) of paragraph 1 :

- the quantity in hectolitres for each 11-figure product code of the agricultural product nomenclature for export refunds is to be given. Where a licence is issued for more than one 11-figure code in the same category as referred to in Annex 1 the category number is to be given,
- the quantity for each code is to be broken down by destination if the refund rate differs according to destination,
- for quantities covered by (c) the refund rate applicable is to be given.

In addition, if the refund rate is modified during the licence application period, applications must be broken down for each period having a different refund rate.

In the case of notification of the information under (d) and (e) of paragraph 1 the quantities referred to in the first indent and the refund rate must be indicated.

3. All the notifications under paragraphs 1 and 2, including 'nil' notifications, shall be made in the form indicated in Annex II.

4. If, after the notifications under (d) of paragraph 1, an adequate quantity becomes available again, the Commission may decide to reopen the lodging of applications for export licences.

5. The Commission shall inform Member States once a month of the extent to which the quantities and expenditure specified in the annual commitment level provided for in the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations for the GATT period in progress have been used up and, when the time comes, of their exhaustion.

Article 8

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 351, 14. 12. 1987, p. 1.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Agricultural product nomenclature code for export refunds	Category
2009 60 11 100 2009 60 19 100 2009 60 51 100 2009 60 71 100 2204 30 92 100 2204 30 94 100 2204 30 96 100 2204 30 98 100	1
2204 21 79 110 2204 21 79 910 2204 21 83 110 2204 29 62 110 2204 29 62 910 2204 29 64 110 2204 29 64 910 2204 29 65 110 2204 29 65 910 2204 29 83 110	2
2204 21 79 190 2204 21 80 190 2204 21 83 190 2204 21 84 190 2204 29 62 190 2204 29 64 190 2204 29 65 190 2204 29 71 190 2204 29 72 190 2204 29 75 190 2204 29 83 190 2204 29 84 190	3
2204 21 94 910 2204 21 98 910 2204 29 94 910 2204 29 98 910	4
2204 21 79 130 2204 21 80 130 2204 21 83 130 2204 21 84 130 2204 29 62 130 2204 29 64 130 2204 29 65 130 2204 29 71 130 2204 29 72 130 2204 29 75 130 2204 29 83 130 2204 29 84 130	5
2204 21 80 110 2204 21 84 110 2204 29 71 110 2204 29 72 110 2204 29 75 110 2204 29 84 110	6
2204 21 94 100 2204 21 98 100 2204 29 94 100 2204 29 98 100	7

ANNEX II

Application of Regulation (EC) No 1685/95

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI/E/2 — Wine Products Sector

Export licence applications

Consignor :

Date :

Period : from Wednesday ... to Tuesday ...

Member State :

Contact person :

Telephone :

Telefax :

Addressee : DG VI/E/2, fax : (32 2) 295 92 52

— Part A: Weekly notification (quantities applied for, Article 7 (1) (a))

Product or category code	Quantities	Destination code	Refund rate (where applicable)

— Part B: Weekly notification (quantities issued, Article 7 (1) (b))

Product or category code	Quantities	Destination code

— Part C: Weekly notification (quantities withdrawn, Article 7 (1) (c))

Product or category code	Quantities	Destination code	Refund rate

— *Part D: Monthly notification (quantities not used, Article 7 (1) (d))*

Product or category code	Quantities not used	Refund rate

— *Part E: Monthly notification (quantities without licences, Article 7 (1) (e))*

Product or category code	Quantities	Destination code	Refund rate

COMMISSION REGULATION (EC) No 1686/95

of 11 July 1995

amending Regulation (EEC) No 2999/92 laying down detailed rules for the application of the specific measures for the supply of processed fruit and vegetables to Madeira and to determine the forecast supply balance for the period 1 July 1995 to 30 June 1996

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira with regard to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 3290/94⁽²⁾, and in particular Article 10 thereof,

Whereas the quantities of products eligible for the specific supply arrangements are determined by means of periodic forecast balances which may be revised according to the essential requirements of the market taking into account local production and traditional trade flows;

Whereas Commission Regulation (EEC) No 2999/92⁽³⁾, as last amended by Regulation (EC) No 1363/95⁽⁴⁾, lays down the detailed rules for the application of the specific measures for the supply of processed fruit and vegetables to Madeira and the forecast balance fixing the quantities eligible for the specific supply arrangements for the period from 1 July 1994 to 30 June 1995;

Whereas valuation of the requirements of the Madeiran market for the period from 1 July 1995 to 30 June 1996 has led to establishment of a forecast supply balance as in the Annex;

Whereas the supply arrangements are applicable from 1 July; whereas, as a result, provision should be made for this Regulation to apply immediately;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2999/92 is replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 301, 17. 10. 1992, p. 7.

⁽⁴⁾ OJ No L 132, 16. 6. 1995, p. 8.

ANNEX

Forecast supply balance covering processed fruit and vegetable products for Madeira for the period 1 July 1995 to 30 June 1996

(tonnes)		
CN code	Description	Quantity
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	
2008 20	– Pineapples	300
2008 30	– Citrus fruit	40
2008 40	– Pears	80
2008 60	– Cherries	60
2008 70	– Peaches	400
	– Other, including mixtures other than those of subheading 2008 19	
2008 92	– – Mixtures	50
2008 99	– – Other than palm hearts and mixtures	30
Total		960

COMMISSION REGULATION (EC) No 1687/95

of 11 July 1995

establishing the forecast supply balance of the Canary Islands for products of the
processed fruit and vegetable sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 3290/94⁽²⁾, and in particular Article 3 (4) thereof,

Whereas, pursuant to Articles 2 and 3 of Regulation (EEC) No 1601/92, the quantities of certain processed fruit and vegetable products in the forecast supply balance, covered by CN codes 2007 99 and 2008 and qualifying for exemption from duty on direct imports from third countries or for aid for consignments from the rest of the Community should be determined;

Whereas Commission Regulation (EC) No 2790/94 lays down the common rules for the application of the arrangements for the supply of certain agricultural products to the Canary Islands⁽³⁾, as amended by Regulation (EC) No 2883/94⁽⁴⁾;

Whereas pursuant to Regulation (EEC) No 1601/92, the supply arrangements apply from 1 July; whereas, as a result, provision should be made for this Regulation to apply immediately;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. For the purpose of applying Articles 2 and 3 of Regulation (EEC) No 1601/92, the quantities covered by the forecast supply balance of processed fruit products qualifying for exemption from duty on imports from third countries or for Community aid shall be as set out in the Annex.

2. Without prejudice to a revision of the supply balance during the period concerned, the quantities laid down for the various products listed in Part II of the Annex may be exceeded by up to 20 % provided that the overall quantity is not exceeded.

Article 2

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

It shall apply from 1 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ No L 304, 29. 11. 1994, p. 18.

ANNEX

Establishing the forecast supply balance of the Canary Islands for products of the processed fruit and vegetable sector for the period of 1 July 1995 to 30 June 1996

<i>(tonnes)</i>		
CN code	Description	Quantity
<i>Part I</i>		
2007 99	Preparations other than homogenized, containing fruit other than citrus fruit	3 000 ⁽¹⁾
<i>Part II</i>		
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or sweetening matter or spirit, not elsewhere specified or included	
2008 20	— pineapples	3 200
2008 30	— citrus fruit	500
2008 40	— pears	1 600
2008 50	— apricots	220
2008 70	— peaches	7 600
2008 80	— strawberries	180
	— other, including mixtures other than those of subheading No 2008 19	
2008 92	— — mixtures	1 850
2008 99	— — other than palm hearts and mixtures	650
Total		15 800

⁽¹⁾ Of which 833 tonnes for the processing and/or packaging sector.

COMMISSION REGULATION (EC) No 1688/95

of 11 July 1995

amending Regulation (EC) No 2883/94 establishing a forecast balance for the supply to the Canary Islands of agricultural products covered by the specific measures provided for in Articles 2, 3, 4 and 5 of Council Regulation (EEC) No 1601/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 3290/94⁽²⁾, and in particular Article 3 (4) thereof,

Whereas Commission Regulation (EC) No 2790/94⁽³⁾, as amended by Regulation (EC) No 2883/94⁽⁴⁾, lays down the detailed rules for implementation of the specific arrangements for the supply of certain agricultural products to the Canary Islands;

Whereas Regulation (EC) No 2883/94 establishes the forecast balance for processed fruit and vegetables for the Canary Islands for the period 1 July 1994 to 30 June 1995; whereas that balance may be revised where necessary, by means of adjustments during the year to the quantities, within the total quantity laid down, on the basis of the region's requirements; whereas in order to satisfy the requirements of the Canary Islands for processed fruit and vegetables at the end of the 1994/95

marketing year; whereas Annex XI to Regulation (EC) No 2883/94 should consequently be amended with effect from 1 June 1995;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex XI to Regulation (EC) No 2883/94 is hereby replaced by the Annex hereto.

Article 2

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

It shall apply from 1 June 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ No L 304, 29. 11. 1994, p. 18.

ANNEX

ANNEX XI

Processed fruit and vegetables

(in tonnes)

CN code	Designation of goods	Quantity
2007 99	Preparations other than homogenized preparations and comprising fruit other than citrus fruit	3 000 (*)
	Fruit, nuts and other edible parts of plants, otherwise prepared and preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	
2008 20 (**)	— Pineapples	3 200
2008 30 (**)	— Citrus fruit	500
2008 40 (**)	— Pears	1 600
2008 50 (**)	— Apricots	220
2008 70 (**)	— Peaches	7 600
2008 80 (**)	— Strawberries	180
	— Other, including mixtures with the exception of those in No 2008 19	
2008 92 (**)	— — Mixtures	1 850
2008 99 (**)	— — Other than palm hearts and mixtures	650

(*) Of which 833 tonnes for the processing and/or packaging sector.

(**) In the case of individual products marked with a double asterisk the quantities fixed may be exceeded, up to a maximum of 20 %, provided that the combined quantity for the products concerned is not exceeded.

COMMISSION REGULATION (EC) No 1689/95

of 11 July 1995

concerning Regulation (EC) No 121/94 relating to the exemption from the import levy for certain products in the cereals sector laid down in the Agreements between the European Community and the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic

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 last amended by Regulation (EC) No 1664/95⁽²⁾, and in particular Article 9 thereof,

Whereas Commission Regulation (EC) No 121/94 of 25 January 1994 relating to the exemption from the import levy for certain products in the cereals sector laid down in the Agreements between the European Community and the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic⁽³⁾, as last amended by Regulation (EC) No 1446/95⁽⁴⁾, specifies the quantities of barley and common wheat originating in the Czech and Slovak Republics and the Republic of Hungary which enjoy preferential access under the Interim Agreement concluded with those countries;

Whereas the Commission must fix a single coefficient for reducing the quantities in the import licences applied for where these quantities exceed the quantities in the annual quota; whereas applications for import licences submitted on 10 July 1995 for wheat from the Hungarian Republic relate to 41 902 478 tonnes and the maximum quantity which may be imported is 232 000 tonnes; whereas applications for licences submitted on the same day for barley from the Czech Republic relate to 156 800 tonnes

and the maximum quantity which may be imported is 27 400 tonnes at a levy reduced by 60 %; whereas the corresponding percentage reductions for import licence applications submitted on 10 July 1995 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for licences for 'Hungary' quota provided for in Regulation (EC) No 121/94 at a levy reduced by 60 % for common wheat and durum wheat falling within CN codes 1001 90 99, and 1001 10 00 submitted on 10 July 1995 and forwarded to the Commission, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,005537.

Article 2

Applications for licences for the 'Czech Republic' quota provided for in Regulation (EC) No 121/94 at a levy reduced by 60 % for barley falling within CN code 1003 00 90 submitted on 10 July 1995 and forwarded to the Commission, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,174745.

Article 3

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 158, 8. 7. 1995, p. 13.

⁽³⁾ OJ No L 21, 26. 1. 1994, p. 3.

⁽⁴⁾ OJ No L 143, 27. 6. 1995, p. 45.

COMMISSION REGULATION (EC) No 1690/95**of 11 July 1995****concerning Regulation (EC) No 1606/94 relating to the exemption from the import levy for certain products in the cereals sector laid down in the Agreements between the European Community, on the one part and the Republic of Bulgaria and Romania on the other part**

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 last amended by Regulation (EC) No 1664/95⁽²⁾, and in particular Article 9 thereof,

Whereas Commission Regulation (EC) No 1606/94 of 1 July 1994 relating to the exemption from the import levy for certain products in the cereals sector laid down in the Agreements between the European Community and the Republic of Bulgaria and Romania⁽³⁾, as last amended by Regulation (EC) No 1446/95⁽⁴⁾, specifies the quantity of common wheat originating in Bulgaria which enjoy preferential access under the Interim Agreement concluded with that country;

Whereas the Commission must fix a single coefficient for reducing the quantities in the import licences applied for where these quantities exceed the quantities in the annual quota; whereas applications for import licences submitted on 10 July 1995 for common wheat from Romania related to 642 200 tonnes and the maximum quantity that may be imported is 21 530 tonnes at a levy reduced by 60 %; whereas applications for import licences submitted on 10 July 1995 for common wheat from Bulgaria related to 60 980 tonnes and the maximum quantity that may be

imported is 2 361 tonnes at a levy reduced by 60 %; whereas the corresponding percentage reductions for import licence applications submitted on 10 July 1995 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for licences for 'Bulgaria' quota provided for in Regulation (EC) No 1606/94 at a levy reduced by 60 % for common wheat falling within CN code 1001 90 99 submitted on 10 July 1995 and forwarded to the Commission, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,038718.

Article 2

Applications for licences for 'Romania' quota provided for in Regulation (EC) No 1606/94 at a levy reduced by 60 % for common wheat falling within CN code 1001 90 99 submitted on 10 July 1995 and forwarded to the Commission, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,033525.

Article 3

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 158, 8. 7. 1995, p. 13.

⁽³⁾ OJ No L 168, 2. 7. 1994, p. 13.

⁽⁴⁾ OJ No L 143, 27. 6. 1995, p. 45.

COMMISSION REGULATION (EC) No 1691/95
of 11 July 1995
fixing the export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾, and in particular the Article 8 (3) thereof,

Whereas Article 8 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas the present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the egg sector;

Whereas Council Regulation (EEC) No 990/93⁽³⁾, as amended by Regulation (EC) No 1380/95⁽⁴⁾, prohibits trade between the European 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 it follows from applying these rules and criteria to the present situation on the market in eggs that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of codes of products for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2771/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁴⁾ OJ No L 138, 21. 6. 1995, p. 1.

ANNEX

to the Commission Regulation of 11 July 1995 fixing the export refunds on eggs

Product code	Destination ⁽¹⁾	Amount of refund ⁽²⁾
		ECU/100 units
0407 00 11 000	02	4,00
0407 00 19 000	02	2,80
		ECU/100 kg
0407 00 30 000	03	24,00
	04	12,00
0408 11 80 100	01	68,00
0408 19 81 100	01	25,00
0408 19 89 100	01	25,00
0408 91 80 100	01	55,00
0408 99 80 100	01	12,00

⁽¹⁾ The destinations are as follows :

01 All destinations,

02 All destinations except the United States of America,

03 Kuwait, Bahrein, Oman, Qatar, the United Arab Emirates, the Republic of Yemen, Hong Kong and Russia,

04 All destinations except those of 03.

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

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 1692/95

of 11 July 1995

establishing the standard import values for determining the entry price of
certain fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994, on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 1363/95⁽²⁾, and in particular Article 4 (1) thereof,

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 132, 16. 6. 1995, p. 8.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 11 July 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)			
CN code	Third country code (1)	Standard import value	CN code	Third country code (1)	Standard import value	
0702 00 35	052	49,3		508	94,7	
	060	80,2		512	50,3	
	066	41,7		524	50,1	
	068	32,4		528	42,4	
	204	50,9		800	98,8	
	212	117,9		804	85,3	
	624	75,0		999	72,5	
	999	63,9		0808 20 47	388	75,5
	0707 00 25	052		50,1		512
053		166,9	528	67,9		
060		39,2	800	68,0		
066		53,8	804	56,4		
068		60,4	999	66,7		
204		49,1	0809 10 40	052		106,3
624		207,3	064	121,7		
999		89,5	999	114,0		
0709 90 77		052	55,6	0809 20 41, 0809 20 49		052
	204	77,5	061		170,0	
	624	196,3	064		177,6	
	999	109,8	068		63,1	
0805 30 30	388	63,8		400	193,4	
	524	65,1		624	239,5	
	528	56,0		676	166,2	
	600	54,7		999	171,9	
	624	78,0		0809 30 31, 0809 30 39	052	113,4
	999	63,5		220	121,8	
				624	106,8	
0808 10 71, 0808 10 73, 0808 10 79	039	91,7	0809 40 30	999	114,0	
	388	66,3		624	217,9	
	400	72,6		999	217,9	

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COMMISSION REGULATION (EC) No 1693/95**of 11 July 1995****amending representative prices and additional duties for the import of certain products in the sugar sector**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1568/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1681/95 ⁽⁵⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 1. 7. 1995, p. 36.

⁽⁵⁾ OJ No L 159, 11. 7. 1995, p. 12.

ANNEX

to the Commission Regulation of 11 July 1995 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	25,68	3,58
1701 11 90 ⁽¹⁾	25,68	8,69
1701 12 10 ⁽¹⁾	25,68	3,45
1701 12 90 ⁽¹⁾	25,68	8,26
1701 91 00 ⁽²⁾	31,29	9,59
1701 99 10 ⁽²⁾	31,29	5,07
1701 99 90 ⁽²⁾	31,29	5,07
1702 90 99 ⁽³⁾	0,31	0,34

⁽¹⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 1694/95
of 11 July 1995
fixing the aid for cotton for the 1995/96 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton annexed thereto, as last amended by Council Regulation (EC) No 1553/95⁽¹⁾,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 laying down the general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81⁽²⁾, and in particular Article 5 (1) thereof,

Whereas pursuant to Article 5 of Regulation (EC) No 1554/95, aid must be granted for unginned cotton harvested in the Community when the world market price for unginned cotton is below the guide price;

Whereas the aid is equal to the difference between these two prices;

Whereas the guide price of unginned cotton for the 1995/96 marketing year is laid down in paragraph 8 of the abovementioned Protocol 4;

Whereas the third sentence of Article 7 (1) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules implementing the system of aid for cotton⁽³⁾, as last amended by Regulation (EEC) No 2046/93⁽⁴⁾, provides that an application for aid may be lodged from 1 June 1995 for the 1995/96 marketing year; whereas the aid for that marketing year should therefore be fixed;

Whereas, pursuant to Article 2 (3) and (4) of Council Regulation (EEC) No 1964/87 of 2 July 1987 adjusted the system of aid for cotton introduced by Protocol 4 and annexed to the Act of Accession of Greece⁽⁵⁾, as last amended by Regulation (EC) No 1553/95, the aid for cotton for the 1995/96 marketing year is adjusted by the reduction fixed to take account of the expected overrun of the maximum guaranteed quantity and the national guaranteed quantities fixed in that Article and also taking

account of budget funding available following the application of that reduction; whereas, in these circumstances, the abovementioned amount of aid has provisionally been calculated on the basis of a provisional overall reduction of ECU 18,284 per 100 kilograms for Greece and without reduction for Spain;

Whereas Regulation (EC) No 1554/95 provides for amendments to the methods of determining the world market price of unginned cotton which will apply to the 1995/96 marketing year; whereas, pending the adoption by the Commission of detailed rules of application for the implementation of that new method, the method referred to in Article 4 of Council Regulation (EEC) No 2169/81⁽⁶⁾, as last amended by Regulation (EC) No 1554/95, should be used, following the procedures referred to in Commission Regulation (EC) No 1234/95⁽⁷⁾, as last amended by Regulation (EC) No 1583/95⁽⁸⁾; whereas, when the abovementioned detailed rules of application have been adopted the amount of aid will have to be replaced by an amount calculated in accordance with the new rules,

HAS ADOPTED THIS REGULATION:

Article 1

1. The aid for unginned cotton referred to in Article 5 of Regulation (EC) No 1554/95 shall be fixed for the 1995/96 marketing year at:

- ECU 72,851 per 100 kilograms for Spain,
- ECU 54,567 per 100 kilograms for Greece.

2. However, the amount of the aid will be replaced with effect from 12 July 1995 to take account of the consequences of the stabilizer system as well as any adaptations to the aid arrangements.

Article 2

This Regulation shall enter into force on 12 July 1995.

⁽¹⁾ OJ No L 148, 30. 6. 1995, p. 45.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 48.

⁽³⁾ OJ No L 123, 4. 5. 1989, p. 23.

⁽⁴⁾ OJ No L 185, 28. 7. 1993, p. 19.

⁽⁵⁾ OJ No L 184, 3. 7. 1987, p. 14.

⁽⁶⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽⁷⁾ OJ No L 121, 1. 6. 1995, p. 21.

⁽⁸⁾ OJ No L 150, 1. 7. 1995, p. 79.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1695/95

of 11 July 1995

determining the percentage of quantities covered by applications for export
licences for eggs which may be accepted

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

Having regard to Commission Regulation (EC) No
1371/95 of 16 June 1995 laying down detailed rules for
implementing the system of export licences in the egg
sector⁽¹⁾, and in particular Article 3 (4) thereof,

Whereas Regulation (EC) No 1371/95 provides for
specific measures where applications for export licences
concern quantities and/or expenditure which exceed the
normal trade patterns or where there is a risk that they
will be exceeded, taking account of the limit referred to in
Article 8 (12) of Council Regulation (EEC) No 2771/75⁽²⁾,
as last amended by the Act of Accession of Austria,
Finland and Sweden, and by Regulation (EC) No
3290/94⁽³⁾, and/or the corresponding expenditure during
the period in question;

Whereas the market for certain egg products is affected
by uncertainties; whereas the refunds currently applicable
for these products could lead to applications being made
for export licences for speculative purposes; whereas
there is a risk that the issue of certificates for the quanti-
ties applied for from 5 to 7 July 1995 may lead to the
quantities corresponding to the normal trade patterns for
the products concerned being exceeded;

Whereas applications for which export licences have not
yet been granted should be rejected for the products

concerned and acceptance coefficients applying to the
quantities requested should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences for eggs submitted
pursuant to Regulation (EC) No 1371/95 shall be dealt
with as follows:

1. for applications from 3 to 7 July 1995, 100 % of the
quantities applied for in the case of categories 1 and 2
referred to in Annex I to the abovementioned Regula-
tion shall be accepted;
2. for applications from 5 to 7 July 1995, 100 % of the
quantities applied for in the case of categories 3, 4, 5
and 7 referred to in Annex I to the abovementioned
Regulation shall be accepted;
3. no further action shall be taken in respect of applica-
tions pending for certificates which should have been
issued from 12 July 1995 for category 6 referred to in
Annex I to the abovementioned Regulation.

Article 2

This Regulation shall enter into force on 12 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 133, 17. 6. 1995, p. 16.

⁽²⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽³⁾ OJ No L 349, 31. 12. 1994, p. 105.

COMMISSION REGULATION (EC) No 1696/95

of 11 July 1995

amending Regulation (EC) No 1660/95 temporarily suspending the issuing of export licences for certain milk products and determining what proportion of the amounts covered by pending applications for export licences may be allocated

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 (EC) No 1538/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1466/95 of 27 June 1995 laying down special detailed rules of application for export refunds on milk and milk products ⁽³⁾, and in particular Article 8 (3) thereof,

Whereas Commission Regulation (EC) No 1660/95 ⁽⁴⁾ suspended the issuing of export certificates for certain milk products; whereas, therefore, it was not possible to take further action in respect of applications for licences for, among others, humanitarian exports by non-governmental organizations of certain milk products to Croatia, Bosnia-Herzegovina, Slovenia and Rwanda; whereas this result was not intended and Regulation (EC) No 1660/95 should therefore be amended retroactively in these exceptional circumstances to allow these exports,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 (2) of Regulation (EC) No 1660/95 is hereby replaced by the following:

'2. No further action shall be taken in respect of applications for licences pending which would have been issued from 7 July 1995 with the exception of:

- licences deposited by non-governmental organizations for milk products falling within CN codes 0401, 0402 91 19 and 0406 and with a country of destination indicated by code 091, 092, 093 or 324;
- those referred to in Article 6 (1) of Regulation (EC) No 1466/95.'

Article 2

This Regulation shall enter into force on 12 July 1995.

It shall apply from 7 July 1995.

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

Done at Brussels, 11 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 17.

⁽³⁾ OJ No L 144, 28. 6. 1995, p. 22.

⁽⁴⁾ OJ No L 156, 7. 7. 1995, p. 75.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 February 1995

declaring a concentration to be compatible with the common market

(Case IV/M.468 — Siemens/Italtel)

(Only the English text is authentic)

(95/255/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

I. THE OPERATION AND THE PARTIES

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings⁽¹⁾, and in particular Article 8 (2) thereof,

Having regard to the EEA Agreement and in particular Article 57 (1) thereof,

Having regard to the Commission Decision of 14 October 1994 to initiate proceedings in this case,

Having regard to the opinion of the Advisory Committee on Concentrations⁽²⁾,

Whereas :

(1) The abovementioned operation concerns the establishment of a joint venture between STET — Società Finanziaria Telefonica — per Azioni ('STET') and Siemens Aktiengesellschaft ('Siemens').

(2) On 26 March 1994, STET and Siemens signed a memorandum of understanding aimed at the creation of a European Telecom group capable of playing a major role as an international supplier. In the notified operation the parties will transfer to the joint venture their Italian subsidiaries, Italtel and Siemens Telecomunicazioni (ST), for developing, manufacturing, sales and service activities in the field of telecommunications.

STET and Siemens will create a holding to which STET will transfer initially 60 % of the capital stock of Italtel (the remaining 40 % equity being contributed later) and Siemens will contribute by transferring the whole capital stock of ST as well as an amount in cash.

(3) STET is an Italian company of which 46,61 % of the capital shares (64,20 % of the ordinary voting shares) is owned by the Istituto per la Ricostruzione Industriale SpA (IRI). STET coordinates the activities of a group of companies operating in the field of telecommunications.

(4) STET operates a fully independent company and its stock is quoted on the Milan Stock Exchange. IRI's function is limited to that of a holding company on behalf of the Italian State, and for the purposes of this notification, STET is considered to be 'an economic unit with an independent power of decision' as described in recital 12 of the Merger Regulation.

⁽¹⁾ OJ No L 395, 30. 12. 1989, p. 1. Corrigendum : OJ No L 257, 21. 9. 1990, p. 13.

⁽²⁾ OJ No C 176, 11. 7. 1995, p. 4.

Italtel is the manufacturing and marketing company of STET in the telecommunications sector. STET holds 100 % of Italtel's registered shares.

Italtel is mainly active in developing, producing and marketing systems and equipment for public and private telecommunications in the fields of switching, transmission systems, mobile radio networks, PBX's and terminals.

- (5) Siemens is a publicly held German industrial and electronics company and the ultimate parent of the Siemens group of companies. The principal activities of Siemens are: industrial and building systems, drives and standard products, automation, automotive systems, power generation (KWU), power transmission and distribution, semiconductors, medical engineering, public communication networks, network systems, passive components and electron tubes, private communication systems, defense electronics and transportation systems.

ST is a wholly-owned Italian subsidiary of Siemens, with manufacturing, sales and services activities in the fields of public and private telecommunications equipment, systems and services, including public and private switching, transmission, fixed and mobile radio networks, as well as terminal equipment for the private market.

- (6) After several years' work on the rationalization of the Italian telecommunications sector in the current year a single telecommunication operator has been established. Further to the resolution of the shareholders of SIP, Italcable, Iritel, Telespazio and Sirm on 19 May 1994, the deed merging the other concessionaire companies into SIP was signed on 27 July 1994 and took retrospective effect in accounting and fiscal terms as of 1 January 1994.

The merger was implemented on 18 August 1994. While retaining its present name, SIP has also been entitled to adopt the name of Telecom Italia SpA for all legal purposes. As a result of the operation STET has 56,10 % of the ordinary shares of Telecom Italia and IRI 2,81 % of the ordinary shares. Telecom Italia is listed on the stock market and the remaining part of the share capital is held by private minority shareholders.

With the abovementioned operation and the other subsequent resolutions the major parts of the steps for the completion of the plan for the reorganiza-

tion of the Italian telecommunication sector according to the lines approved by the Italian Government have been taken.

In particular the company which is active in the provision of the telecommunication services (Telecom Italia) has been separated within the STET group from the companies which are in charge of the equipment manufacturing activities (Italtel, Sirti and Aet).

The remaining steps of the reorganization plan concern the transfer from Telecom Italia of its mobile phone operations and space divisions to independent companies.

- (7) Italtel had been looking for a technological partner in the past. It first established a number of agreements with AT&T which included the acquisition by AT&T of a minority stake in the capital share of Italtel. The agreements with AT&T have now been terminated and AT&T has sold its stake back to STET.

II. THE CONCENTRATION

Joint control

- (8) STET and Siemens shall each own 50 % of the share capital in the joint venture. The joint venture will have a nine-member Board of Directors. STET and Siemens will appoint four members each, while the ninth member, the Chairman of the Board, will be designated by STET and approved by Siemens.
- (9) The Board shall be governing body of the joint venture and shall have the authority to adopt resolutions on any matter not reserved by virtue of law to the shareholders' meeting. The resolution of key decisions will be adopted by the Board of Directors with the approval of the STET and Siemens' representatives. These decisions include among others:
- the approval of the strategic business plan and the yearly budget,
 - the proposals of the CEO as to the appointment and removal of senior officers of the joint entity and of the Board members of the holding's subsidiaries.
- (10) With regard to matters reserved to the shareholders meeting's decision, under the shareholders agreement each party commits itself to vote its shares in conformity with the proposals previously approved by the Board according to the above.

- (11) Each of the parties will have the right of veto at least over the principal decisions concerning the joint venture, which are mentioned under point 9. Therefore, they will have joint control over the joint venture.

Full function entity

- (12) The parties will transfer to the joint venture their Italian subsidiaries which are active in the manufacturing of telecommunication equipment. The operation will bring about the industrial merger of the activities of the parties in the product areas of switching, transmission, radio systems, mobile radio and private communication systems and terminals. The joint venture will have all the assets and resources necessary to perform all the functions of an autonomous entity, including R&D, manufacturing and distribution.

For the main products of the public telecommunication sector (public switching systems and transmission) the bulk of the sales of the joint venture will continue to be absorbed by the Italian telecom operator, which is controlled by one of the parents (STET). A high level of sales to a parent in a downstream market could lead to questioning the autonomy of the joint venture. It is true that for the foreseeable future Telecom Italia will be the only buyer on the public telecom markets. This is due to the infrastructure monopoly and not to the fact that the manufacture of telecommunication equipment is an auxiliary activity to the provision of the service.

Absence of coordination

- (13) While Siemens will remain active in the same product markets as the joint venture outside Italy, STET is to withdraw from the markets concerned by transferring its relevant business to the joint venture. The only exception to this is that AET, a subsidiary of STET, is active in one of the markets (transmission) affected by the operation. However, Siemens does not retain any business activity for transmission in Italy. At European level AET turnover in transmission is of minor importance; it represents less than 1,5 % of the total market. Furthermore, the potential for coordination arising from this situation is minimal given the fact that the activities of AET in the transmission market in

Italy are of minor importance in relation to the overall activities of the merged entity (around 2%).

With regard to the role of Marconi as a competitor of Italtel on the relevant markets, it has to be considered that recently Marconi, which is an Italian company which forms part of the GEC group and Finmeccanica, a company which, like STET, also belongs to the Italian State holding company, IRI, established a concentrative joint venture⁽¹⁾ which will operate in a number of communications market segments including some (PTT network management and supervisory systems, infrastructure for cellular radio networks and terminals for public cellular radio network) in which the parties are present. Although IRI is the ultimate holding company of both Finmeccanica, which owns 50 % of the share capital of the Marconi/Finmeccanica joint venture, and STET, which will have a 50 % stake in the Siemens/Italtel joint venture, there is no link between STET and Finmeccanica, both of which operate as separate economic units, conducting their business independently from each other.

Thus effectively only Siemens will remain active on the joint venture's markets. Having transferred its assets and expertise in the high-tech products concerned, it would be costly and commercially unreasonable for STET to attempt to re-enter the market. There is therefore no relevant risk of coordination arising from the notified operation.

III. THE COMMUNITY DIMENSION

- (14) The undertakings concerned have a combined aggregate worldwide turnover in excess of ECU 5 000 million. STET achieved a turnover of ECU 16 174 million in 1993 and Siemens one of ECU 42 087 million in the financial year ending on 30 September 1993. They both have a Community-wide turnover of more than ECU 250 million. They do not achieve more than two-thirds of their aggregate Community-wide turnover in one and the same Member State. The operation therefore has a Community dimension. The operation is not an EEA 'cooperation' case within the meaning of Article 58 and Protocol 24 of the EEA Agreement.

⁽¹⁾ OJ No C 253, 10. 9. 1994, p. 10.

IV. THE RELEVANT PRODUCT MARKET

- (15) The proposed transaction concerns broadly the public and private telecommunications systems and equipment sectors. For the purposes of identifying the relevant affected product markets, the parties have subdivided the first of these sectors into four product markets :

1. public switching systems
2. transmission
3. radio systems
4. mobile radio network

and the second they have likewise subdivided into two :

5. private switching and key telephone systems (KTS)
6. communication terminals

(16) Public telecommunications

1. Public switching systems allow the interconnection of service users. The switched services can cover voice, data, image and text. The three main network switching nodes are characterized by :
 - (a) local switching functions which interconnect end-users ;
 - (b) transit exchanges which interconnect transmission links ;
 - (c) international transit exchanges which provide international services.

In the past, these switching nodes were built in analogue mode but, since the 1980s, public switching equipment with analogue technology is being gradually replaced in Europe by equipment in digital synchronous mode and new extensions in the networks are likewise being carried out in digital technology. In Italy, this process of digitalization of the network is now at around 60 % of its completion and is expected to reach 90 % by the end of 1998, according to the parties.

The current life cycle for public switching systems is around 15 years. This lengthy life cycle, despite rapid progress, is due to the possibility of adaptation and updating of the software programmes that run the switching equipment and to the reengineering of parts of the systems.

At present, the major technological trend that is influencing developments in public switching is the increasing use of software to provide intelligence in the network. Examples of this trend are TNM (telecommunication network management), IN (intelligent network), OS (operator systems) and AN (access network). The use of stand-alone modules with open interfaces allows for the continuous upgrading and enhancing of the network by such new features and services. Software is frequently updated (e.g. every six months or year) on a regular basis and has a life span of from two to five years.

In the future, the next major development in public switching systems will be the introduction of asynchronous transfer mode (ATM) technology which will allow the broadband transmission of voice, data, image and text. This technology is presently undergoing technical and commercial evaluation by telecom operators in field trials being carried out in several European countries, including Italy. However, its actual introduction in the public network is not expected before the end of the 1990s. The future of ATM switching will depend also on the attitude of the telecom operators who may be reluctant to replace expensive equipment, that has not been fully depreciated, but could be forced to do so by competition in an emerging liberalized market. Consequently, there seems to be no great certainty with regard to when ATM will find a large-scale application in voice telephony and it is possible that it may be restricted initially to an overlay network for business/service applications. According to market sources, ATM switches are expected to represent around 10 % of the sales of switches in Europe in five years' time.

With regard to the evolution of the life cycle of public switching equipment, it is thought that the major new technology developments in switching, both in software and hardware products, are more likely to expand the range of available functions, and therefore to serve new needs, than to shorten the life cycle of existing equipment. This trend is expected to continue over the next five to 10 years.

2. Transmission provides the transport function for :
 - (a) traffic between local central switching offices and transit central switching offices ;
 - (b) leased line traffic between business customers, by cable and optics.

The main building blocks of transmission are digital multiplexers and optical line terminals (the parties are not active in the cable field). The latest major development in transmission is the transition to synchronous digital hierarchy (SDH) technology from plesiochronous digital hierarchy (PDH) in network management systems equipment, which is already underway. This new technology enables ATM broadband switching and it is expected that, within five years, SDH will represent 95 % of the transmission equipment market. It is operational via TNM and will, in the future, operate via the open interfaces of AN. It is thought that the introduction of AN will open up this market and enforce competition as there will be an increasing migration of services and functionality away from central office switching into the local access networks.

The life cycle for transmission has been around 10 years when only major technological changes are regarded. This life cycle includes, however, major redesigns every three to five years of the PDH equipment which is hardware intensive. The life cycle of SDH equipment, being more software intensive, is expected to behave more like the life cycle of switching equipment.

3. In radio systems, line-of-sight radio technology provides an alternative to cables in information transport among switching offices or between subscribers and central offices. A recent important role of radio is the interconnection of large business customers to the switched network, or to corporate and private virtual networks. Line-of-sight radio is today being applied in the interconnection of mobile radio base stations, in particular in the market segment of new operators who have no cable infrastructure. Radio systems are, like transmission, migrating towards SDH. R&D expenditure is estimated at 15 %, the same level as for transmission, by the parties.

The parties include in this market microwave and UHF/VHF radio, line-of-sight antennas, feeder cables and operation support systems. The parties have confirmed, however, that neither Italtel nor any other company controlled by STET is active in the radio systems market. For this reason, the market is not an affected product market and will not be analysed further.

4. Mobile radio networks allow for communication :

- (a) within the own network ;
- (b) to or from another fixed or mobile network as long as the user is within radio coverage of the mobile network.

The last major technological innovation in mobile communication networks has been the introduction of GSM, the pan European digital mobile communications systems, in 1989. GSM architecture has been clearly defined in the GSM recommendations promulgated by ETSI in the EEA countries.

The evolution in this area is expected to be towards the provision of an increasing proportion of narrowband services by mobile (e.g. cellular) systems. It is thought that the significant growth already being experienced in the customer demand for such mobile services will lead to the introduction of new technologies.

The next generation of infrastructure is expected to be direct satellite communications which it is thought will be available in 1998. With GSM technology, innovation cycles of two to three years are foreseen.

(17) Private telecommunications

5. In private telecommunications systems, private branch exchanges (PBX's) and key telephone systems (KTS) allow for communication within/between users, whether public or private. They are connected to the public networks via trunk lines, operating as stand alone systems or in a networking environment. Modern (ISDN) PBX's and KTS provide services such as fax-PC interworking, video-conferencing, and network management.

In the present case, data communication equipment is excluded from the market definition as neither Siemens nor Italtel ever specifically addressed this market segment. Their sales of data communication equipment are marginal (1 % of their turnover). These sales are occasional, mainly connected to the integration of OEM data products into complex projects. For these reasons, the analysis of the notified concentration will be restricted to private voice transmission equipment. The question of whether data transmission should be included in the market may be left open.

The parties point out the constantly increasing cost of R&D in private telecommunications at 10 to 15 % of turnover, due to heavy R&D competition in a market which is characterized by the rapid introduction of additional/new technologies in increasingly shorter time periods/life cycles.

6. Within the range of communication terminals, the parties indicate that for the relevant years Siemens and Italtel have only sold telephones, fax machines and cellular telephones. They have included all three products under one affected relevant product market, although they have provided separate figures relating to market estimates and market shares separately for each type of terminal. Since the notified transaction does not raise competition issues of dominance either considering an overall product market for private terminals or separate narrow markets for each type of terminal, the question of the exact product market definition can be left open.

- (18) The above relevant product markets, as defined by the parties, were confirmed by the competitors and the telecom operators in the course of the investigation.

V. THE RELEVANT GEOGRAPHIC MARKET

- (19) The overlap of the parties' activities and the main impact of the operation will be in Italy. Italtel only has limited sales of public telecom equipment elsewhere: ECU 1 million in Germany for public switching, limited sales of transmission equipment in Germany, the Netherlands, Portugal and Spain with a market share below 5 % in all cases, and sales of mobile radio network equipment worth ECU 24 million in Greece.

Public telecommunications equipment

- (20) The parties argue in their notification that the strict application by SIP (now Telecom Italia) of Council Directive 90/531/EEC⁽¹⁾ (the Utilities public procurement directive) and the current level of standardization ensure that barriers to access to the Italian markets in public telecommunication equipment are of little importance. Although the public procurement directives have not yet been transposed into Italian law, according to the parties since 1993 SIP has operated its own internal rules in compliance with the directives, including the creation of a qualification system and a register of qualified suppliers.
- (21) Until now, the Commission has only defined geographic markets in public telecommunication equipment in its Decision 91/251/EEC⁽²⁾, Alcatel/Telettra, where the market for public telecommuni-

cation equipment was found to be national for a merger affecting Spain. Some of the factors which motivated this national market definition were specific to the situation in the Spanish telecommunications market at that time, such as: that Telefonica, the Spanish telecommunications operator, had traditionally purchased from local suppliers; that the application of the Utilities public procurement directive would not take place in Spain for the following five years; and that there were vertical links between Telefonica and its major equipment suppliers through minority shareholdings.

- (22) Of the characteristics outlined in the decision which were specific to the Spanish market, none applies fully to the Italian market in the context of the current case. Through it is true that in the past Telecom Italia and its predecessors have purchased both switching and transmission equipment from Italtel, they have more recently also sourced significant quantities from other suppliers outside Italy. The Utilities Directive has applied to Italy since the beginning of 1993 and internal rules have been drawn up within Telecom Italia in order to comply with it. Finally, there is a type of link between Italtel and Telecom Italia in that they are both separate parts of the STET group.

- (23) Traditionally, public telecommunication equipment markets have shown clear national characteristics, arising from the different attitudes and strategies of the national monopolies at the service level. Usually, domestic suppliers have enjoyed high market shares in their home countries, and other non-domestic suppliers have often served other markets from national subsidiaries there, sometimes with local manufacturing facilities.

- (24) The prevailing view among manufacturers of telecommunications equipment and telecom operators is that the markets for telecommunications equipment are in the process of opening up to international competition. The following factors are relevant to that judgment:

- technological developments,
- international standards and national specifications/type-approval of equipment,
- the application of public procurement directives,
- liberalization of public voice telephony and telecoms infrastructure.

(a) Public switching

- (25) The technology of public switching equipment is complex and has an important impact on the geographic market definition. An operator will generally only use a maximum of three different

⁽¹⁾ OJ No L 297, 29. 10. 1990, p. 1, replaced by Directive 93/38/EEC (OJ No L 199, 9. 8. 1993, p. 84).

⁽²⁾ OJ No L 122, 17. 5. 1991, p. 48.

types of switches in significant quantities in a network. Once the suppliers have been chosen for a particular network, then those suppliers will install the switches and provide software upgrades to the operator. Should an increase in capacity be needed with requires additional switches at that location, then for technical reasons the same supplier is likely to be used.

- (26) This technology 'lock-in' effect leads to differing conditions of competition at different stages in the life cycle of a switch. The opportunity to supply new switches to a network is the subject of a high degree of competition between switch manufacturers. At that stage, competition takes place amongst the major public switch manufacturers at least on a Europe-wide basis and possibly on a worldwide basis. However, once the two or three suppliers have secured the contracts, it becomes more difficult for new entrants to enter the market whilst that technology remains extant. Only in exceptional circumstances, for example if an existing supplier fails to perform to the satisfaction of the customer, will a new supplier get the opportunity to enter the market. Market structures to supply operators then remain relatively stable until the next new technology is introduced (which in the case of public switching will be ATM switching).

- (27) The international standards making bodies, and in particular ETSI, are in the process of drawing up standards for public switching equipment. Other standards are developed independently and are subsequently validated by ETSI. Given manufacturers' wishes to protect their intellectual property and the continuing development of the standards, it cannot be said that international standards yet exist for digital switches. Therefore, though standardization is breaking down the barriers between markets, it has not yet completely taken place and so significant differences amongst Member States remain for existing digital switch technology.

- (28) For new technology, such as ATM switches, the picture may be different. ATM switches are currently being pilot tested in a number of European countries and the testing programme is the subject of some cooperation between telecom operators. It may be expected therefore that once ATM is introduced, a higher level of standardization across Europe may have been achieved than was the case when digital switches were introduced.

The experience of the manufacturers and operators in ETSI and elsewhere in cooperating to produce standards may also make a wider standards more likely with ATM and other new technology.

- (29) The application of public procurement directives in the switching sector is closely related to the technology and standardization factors outlined above. Pursuant to Article 20 (2) (e) of Council Directive 93/38/EEC, Telecom operators may use a procedure without a prior call for competition, for example, where a change in suppliers would oblige the contracting entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. Other small purchases of equipment may fall below the threshold or be part of framework contracts covering more than one individual purchase. All these facts tend to support a national market definition. Conversely, when new technology is introduced, then the procurement directives should be applied fully, with invitations for tender from all possible suppliers. This would tend to imply a European or wider market definition.

- (30) Liberalization at the level of the operator will also have an effect on the geographic market definition. Liberalization of public voice telephony, which is scheduled for 1998, the open network provision directive and, most importantly, liberalization of the infrastructure will almost certainly lead to a broader market definition than national markets as the new operators will not be constrained by the existing network standards and will have a free hand when choosing their equipment suppliers.

- (31) Competition in the public switching market only properly takes place at a European level when a new technology is introduced. Once the suppliers of that technology have been chosen by the network operator, competition only takes place between these suppliers. This is as a result of the lock-in of technology and the current infrequent use of tender procedures under the procurement directives for upgrades to and extensions to existing technology. The liberalization of services and infrastructure appears to be the main factor which will ensure a European or wider market with the continuing process of European standardization also helping to confirm this market definition.

(b) Transmission

- (32) For transmission equipment, not all of the factors listed for public switching apply. Standardization of transmission equipment is more widespread, partly because the interface aspects of the equipment are more important than for switches. A higher priority is, therefore, necessary for compatibility with other types of equipment from other manufacturers. Operators do not limit their sourcing of transmission equipment to three suppliers in the same way that takes place for switching. Market shares are therefore lower as more companies can supply one operator.
- (33) Transmission equipment is a market which is more open than public switching and the market shares of the parties in the Italian market are lower. Even on the basis of the worst case scenario, which would be a national market definition, the operations does not cause competitions problems, so the precise market definition can be left open.

(c) Mobile radio networks

- (34) Operators of mobile radio networks throughout western Europe have confirmed that they purchase telecommunication equipment through tender procedures. The geographic location of the equipment manufacturers has little relevance in the decision to choose a supplier and in all cases the main suppliers worldwide were in a position to submit a bid. In any case, and in view of the position of the merged entity in Italy and in Europe, the exact definition of the geographic market may be left open in this case since the notified operation does not raise serious competition concerns.

Private telecommunications equipment and communication terminals

- (35) The markets of private switching and related terminals and communication terminals seem to be rela-

tively more open to competition, with a higher penetration of non-Italian companies. None of the competitors or clients consulted during the investigation have indicated the existence of legal or technical barriers to access to Italy. In any case, and given the position of the notifying parties on these markets, the precise geographic market does not have to be defined in this decision. The notified transaction does not raise any major concerns in the markets of private telecommunication equipment and communication terminals, either at national or European level.

VI. ASSESSMENT

- (36) In order to assess the competitive impact of this operation, the following factors have to be taken into account, besides the market positions of the parties :

- public procurement rules,
- changes in technology,
- trends in liberalization, and
- vertical aspects.

(A) Public telecommunication equipment

- (37) A general overview of the worldwide industry of public telecommunication equipment is provided in the following ranking of companies, with their respective worldwide turnover in communications equipment in million dollars in 1993, together with their respective share of the total sales of these companies.

Company	Sales	% share
1. Alcatel Alsthom	14 544	15,70
2. Siemens	11 986	12,94
3. AT&T	11 783	12,72
4. NEC	8 714	9,41
5. N. Telecom	7 861	8,49
6. Ericsson	7 703	8,32
7. IBM	5 300	5,72
8. Fujitsu	4 388	4,74
9. Bosch	2 655	2,87
10. Nokia	2 161	2,33
11. GEC	1 917	2,07
12. Philips	1 813	1,96
13. Samsung	1 788	1,93

Company	Sales	% share
14. Italtel	1 558	1,68
15. Ascom	1 538	1,66
16. Matra	1 508	1,63
17. Oki	1 462	1,58
18. Hitachi	1 429	1,54
19. Sagem	1 049	1,13
20. DSC	731	0,79
21. DeTeWe	721	0,78
Total	92 609	100,00

Source: Communications Week International. Companies specialized in private network systems, mobile networks or data networks have not been included.

1. Market shares of the parties

Public switching

- (38) The initial market shares calculated by the parties in their notification for public switching referred to a market inclusive of public switching and operating support systems (OSS), power equipment and other relating exclusively to the purchases of switching and OSS by the telecom operator (TO) in Italy. The inclusion originally of the other products in the market brought in suppliers which are not able to sell switches as such and therefore are not competitors of the parties in the strict sense, with the result that the parties' initial market shares were underestimated. On this basis, the market value, sales and respective market shares of the parties and their main competitors in Italy are established as follows:

Purchases of Telecom Italia

(Ecu million)

Italtel	(.) ⁽¹⁾
Siemens	
Combined	
Alcatel	
Ericsson	
Others	
Total	

⁽¹⁾ Deleted as business secret.

Market shares⁽¹⁾

(in %)

	1991	1992	1993
Italtel	40-50	50-60	40-50
Siemens	5-10	5-10	5-10
Combined	50-60	60-70	50-60
Alcatel	10-15	10-15	10-15
Ericsson	15-20	10-15	15-20
Others	10-15	10-15	15-20
Total	100	100	100

⁽¹⁾ Precise figures deleted as business secret.

Competitors have broadly confirmed this magnitude of market shares, although they estimate that Siemens and Italtel combined share remained at roughly 60 % in 1993.

- (39) Market shares in the Community amount to 20 % in 1991, 23 % in 1992 and 24 % in 1993 for Siemens and 12 % in 1991, 12 % in 1992 and 8 % in 1993 for Italtel. The combined market share represents therefore 32 %, 35 % and 32 % respectively.

- (40) The main impact of the notified operation from a competition point of view is in principle restricted to Italy, since the sales of Italtel and the overlap of the parties' activities are basically concentrated in this country. In a broader geographic market, Italtel

is a smaller player, and the joint venture is not likely to have a significant impact on the competitive relations between the 10 leading worldwide suppliers of telecommunication equipment. The combined market share of the parties in the sales of public switching equipment in Italy will be substantial by the usual standards applied under Regulation (EEC) No 4064/89 (about 55 to 60 % depending on the year taken as reference). However, it has to be noted that this market share is not higher than the market shares of the leading suppliers in other Member States. Information submitted by the parties themselves, competitors and the public telecom operators (TOs) in Germany, France, the United Kingdom, Spain, Denmark, Netherlands, Belgium and Ireland show in fact that the Italian market structure is relatively less concentrated than in any other Member State of a comparable size, regardless of the extent of liberalization.

- (41) The high concentration of the supply of switches in all Member States is largely explained by the fact that TOs normally limit the number of different technologies or systems coexisting in a network to a maximum of two or three. Factors such as network management, training, service logistics, security and the introduction of new services in the network lock operators into a limited number of suppliers. Furthermore, once a technology has been introduced into the network, given the long life cycle of switches (around 15 years, never less than 10, see point 16), demand for public switching is basically driven by upgrades and extensions of the network. This market must be awarded to the original supplier of the already installed switch for reasons of costs and efficiency. With the exception of the time when a new major technology (i. e. digitalization) is going to be introduced in the basic network, demand for switching equipment is largely determined by this lock-in effect arising from the original choice of suppliers for the installed base. This fact has been confirmed by both competitors and TOs and it is further confirmed by the existing situation in various Member States.

- (42) In Germany, the public network includes only two technologies: Siemens' and Alcatel's. There are other suppliers of public switches (Bosch and DeTeWe for instance), but the supply Siemens' technology under licence. In France, Alcatel and Ericsson supply all the purchases of France Telecom, since the French network is composed of only these two systems. In the United Kingdom,

the installed base comprises switching systems from GPT and Ericsson. It is true that there are other companies supplying switches to British Telecom (BT), such as Alcatel, Northern Telecom and AT&T. However, these purchases referred to one-off operations for field trials or for the establishment of overlay networks to provide special services, such as a virtual private networks or free call services. Their share of BT's purchases is limited, and their presence does not alter the fact that BT's basic network comprises only two switching systems, and that therefore GPT and Ericsson account together for most of BT's purchases of public switches. In Belgium, only two systems are used: Alcatel and Siemens. In Spain, the basic network is composed of Alcatel switches and to a lesser extent, Ericsson and AT&T. In Portugal all purchases of equipment in 1992 to 1994 were supplied by either Siemens or Alcatel, since these are the only systems installed. In Ireland, the network is based on Ericsson and Alcatel systems. Finally, three different system are installed in Italy: those from Italtel, Alcatel, and Ericsson. Siemens' subsidiary in Italy sells Italtel's systems under licence. Consequently, Italtel, Alcatel and Ericsson account for most of the purchases of switching equipment of Telecom Italia.

- (43) In view of the above considerations, it cannot be concluded that aggregation of the market share within the merged entity in Italy constitutes in itself a proof of possible dominance. A high concentration of the supply of public switching systems is the normal consequence of the basic rationale underlying demand for these products.

Transmission

- (44) The sales and respective market share of the main competitors for transmission equipment in Italy are as follows according to the notification:

Sales of main competitors

(Ecu million)

STET	
Siemens	
Combined	(...)
Alcatel	
Marconi	
Others	
Total	

Market shares⁽¹⁾

	(in %)		
	1991	1992	1993
STET	30-40	40-50	30-40
Siemens	10-15	5-10	5-10
Combined	50-60	50-60	40-50
Alcatel	25-30	20-25	25-30
Marconi	15-20	15-20	15-20
Others	5-10	5-10	5-10
Total	100	100	100

(¹) Precise figures deleted as business secret.

- (45) Market shares in the Community amount to 18 % in 1991, 20 % in 1992 and 18 % in 1993 for Siemens and 8 % in 1991, 9 % in 1992 and 5 % in 1993 for Italtel. The combined market share represents therefore 26 %, 29 % and 23 % respectively.

- (46) The lock-in effect arising from the installed base described above for public switching plays a much lesser role with respect to transmission. Standardization for transmission is relatively more advanced and generally TOs in the EC tend to diversify more their sources of supply. Detailed information submitted by TOs in the United Kingdom, France, Germany, Denmark, Belgium and Spain as well as Telecom Italia show that there are usually at least three main suppliers of transmission equipment, and in most cases several other less important ones.

2. Public procurement

- (47) Purchases of public switching and transmission equipment in the EC have been subject to the public procurement directive, Directive 93/38/EEC for almost two years now.

Switching

- (48) Purchases of public switching under the public procurement directive, however, have in most cases been carried out without using a call for tenders procedure. Most of these purchases have been done either applying the derogation pursuant to Article 20 (2) of the Directive which includes an exception for technical reasons or reasons connected with protection of exclusive rights, or under multiannual contracts entered into by the TOs with their traditional suppliers prior to the entry into force of the

Directive. Suppliers of public switching equipment have also stated that the situation is not likely to change in the future, with regard to the extension or upgrading of the installed base. As stated above, there are technical reasons for awarding this type of contract to a given supplier. However, public procurement is likely to play a more important role at those times when TOs are considering the introduction of new major technological developments (such as digitalization or ATM broadband switching) in their networks. This situation opens up the possibility for TOs to consider new suppliers and for suppliers to enter *de novo* a public network. In this situation, tendering procedures would indeed be justified. An example of this is provided by the pan European pilot trials of ATM switching. Telecom Italia, as most of the other 15 TOs involved in this trial, issued a call for tenders following the procedures foreseen in the Directive. The call for tenders was published in the *Official Journal of the European Communities* and the technical specifications were based on ETSI standards. Eight manufacturers were in a position to bid, including Italtel and Siemens. The competition was won by Ericsson and Alcatel.

Transmission

- (49) Because of the lesser constraints to diversify the sources of supply and the relatively higher degree of standardization of transmission equipment, the impact of public procurement has been relatively higher in this market. In 1993, three TOs had purchased significant amounts of their requirements after calls for competition. In 1994, there has been a significant increase in the proportion of purchases acquired after calls for tender, and TOs in other Member States have started to use them. However, in most cases, the larger part of the purchases were still attributable to multiannual contracts established before the entry into force of Directive 93/38/EEC, notably in Italy.

3. Technology

- (50) The public telecommunication equipment industry, and in particular the development and manufacture of public switching, is research intensive. Companies typically spend around 15 to 20 % of their turnover in R&D. The cost of developing a new generation of telecommunication switches has been estimated as high as ECU 4 billion by the parties. The figure varies depending on whether it refers to a small local switch or a major international exchange. Lifetime expenditures for a major family of digital exchange systems (such as EWSD from

Siemens or Linea UT from Italtel) approach ECU 1,6 billion. According to information submitted by the parties, the main suppliers of public switches (Alcatel, AT&T, Ericsson, Northern Telecom, Siemens) each invested close to 500 million dollars or more in R&D for public switches in 1992. These costs must be regarded as necessary to be able to maintain a competitive position from a technological point of view. Long-term viability in the market requires therefore a certain minimum amount of sales in order to be able to develop a new generation of switches and maintain the usual ratio in the industry of R&D expense to sales. Technology constitutes therefore another factor leading to a relatively high concentration of supply.

- (51) The major technological developments regarding public switches have been described above, under product market definition. An important effect in this context is that major technological innovations typically give rise to operators considering new suppliers and suppliers considering opportunities to enter into new markets. In this context, and to analyse the possible impact of the notified operation, it has to be noted that Telecom Italia has already made its choice of suppliers of digital switches (Ericsson, Alcatel and Italtel). Although ST has sold switches in the past in Italy, it has to be noted that these were not Siemens switches, but UT switches manufactured under licence from Italtel.

- (52) The digitalization of the Italian network was decided according to an architecture defined during the 1980s, when the decision to move from analogue systems to digital systems was taken. This architecture is based on about 600 areas, within each of which the switching system is homogeneous. At that time, SIP assigned each single switching area through negotiations with all manufacturers of switching equipment that were able to guarantee maintenance service and assistance throughout the whole national territory. The last assignment of an area was done in 1991. It is important to note that with the transition from analogue to digital, SIP considered reducing the number of systems in its network from three to two, in line with the situation in other Member States. The choice has been described by representatives of Telecom Italia as a trade off between increased operating costs (in terms of maintenance and introduction of new services) and maintaining leverage against suppliers. The decision was taken to accept higher operating costs and maintain three

different systems in the network, unlike most other TOs in the Community.

- (53) The next technological discontinuity that may be compared to digitalization is the introduction of ATM switching. At present, no competitor expects large commercial orders for ATM switches in the public sector before the end of the century. Furthermore, there is at present uncertainty about the extent to which ATM switches will really replace digital public voice networks. The possibility remains that ATM will only be introduced in overlay networks for specific services of a limited scope, or that it be restricted to LAN or LAN interconnections. In any case, it has to be noted that the next round of competition for public switching will take place, if at all, under a market structure that will have been substantially modified by liberalization of basic services (anticipated in Italy by 1998) and infrastructures.
- (54) With respect to ATM switches, it has to be noted that the experience in those countries that have started to introduce overlay networks with ATM switches or in the commercial applications for ATM in data transfer has shown the emergence of non-traditional public telecommunication equipment suppliers. According to specialized press reports, there are number of non-conventional suppliers of public switches that have already won commercial contracts from public network operators in the United States of America, Finland, Switzerland, the United Kingdom and Denmark.

4. Liberalization of services and infrastructures

- (55) Competitors contacted by the Commission in its enquiries, have stressed that liberalization of services and infrastructures is more relevant to the actual functioning of the public telecommunication equipment markets than the traditional approach based on standardization and public procurement. Liberalization of public voice service is planned from 1 January 1998 ⁽¹⁾. Furthermore, the Council of Ministers agreed on 17 November 1994 on the principle that public telecommunications infrastructures should be liberalized at the same time as the remaining services. It has to be noted that Italy is not among the countries that have requested specific derogations to these objectives.

⁽¹⁾ Council resolution of 22 July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market (OJ No C 213, 6. 8. 1993, p. 1)

(56) According to some competitors, the progressive liberalization of services (private telecommunications, GSM) has reduced the potential for revenues of the TOs. TOs have lost significant markets and when they have still maintained a presence in those markets, prices and margins are in any case constrained by competition. The result of the liberalization of services could therefore, indirectly induce pressure on TO's to purchase equipment competitively even in the non-liberalized areas if they want to maintain their overall profits. Most other competitors have nevertheless focused on the liberalization of infrastructures as the determinant factor to introduce actual competition in this market.

(57) On the other hand, it has to be considered that even if infrastructures are fully liberalized, the current monopolists will still enjoy a very strong position in their home markets until new entrants progressively set up their own infrastructures. In any case, the decisions as to the principle of liberalization and its time frame have been already adopted. This is of particular importance in view of the long life cycle of switches, because the decisions as to the infrastructure that TO's will build in the following years will have an irreversible impact for a long time frame, and consequently, the decisions regarding the choice of systems and technologies that will determine the basic telecommunications infrastructure of a country cannot ignore the future impact of these measures.

5. Vertical aspects in public telecommunication equipment

(58) One of the reasons for which the Commission decided to open a second phase investigation in this case relates to the fact that one of the parents of the joint venture, STET, controls Telecom Italia. Telecom Italia enjoys exclusive rights to provide public telecommunication services and to install and operate the relevant infrastructure in Italy and consequently, it is not subject to the usual competitive constraints in its own markets. On the other hand, the other parent of the joint venture, Siemens, is a European and world leader in telecommunication equipment. Therefore the notified operation raised serious doubts as to its compatibility with the common market since there was, in principle, scope for STET and the joint venture to significantly distort competition among suppliers of public telecommunication equipment in Italy.

(59) After the second phase investigation, and having consulted a large number of telecommunication

equipment manufacturers and telecommunication operators, the Commission concludes that the notified concentration does not create or reinforce a dominant position in the markets of public telecommunication equipment (switching and transmission) for the reasons given below.

(60) First of all, it is necessary to examine the extent to which the notified concentration creates a market structure such that the objective interest of STET to force Telecom Italia to pursue an anticompetitive purchasing policy, or give privileged treatment to a supplier, is created or reinforced. In this respect, it has to be noted that if the notified concentration is not implemented, STET will continue to have full control of Italtel through the ownership of its share capital. In the situation where the concentration has been implemented, the benefits of any privileged treatment to the joint venture imposed on Telecom Italia by STET would be shared with Siemens. *Prima facie*, the notified operation reduce therefore the objective interest of STET or Telecom Italia to favour the joint venture at the expense of Telecom Italia, for instance by accepting higher prices for equipment. This is more so since Siemens gains a direct influence only over the equipment supplier (Italtel), and no influence at all over the telecom operator (Telecom Italia) or over its parent (STET). Such an operation would be of a very different nature.

(61) STET's or in the last instance, IRI's, economic interests are much wider with respect to the provision of telecommunication service than with respect to the manufacture of telecommunication equipment. The turnover generated by Telecom Italia represents roughly 80 % of the total turnover generated by the companies belonging to the STET group.

(62) Although STET has control of Telecom Italia, a large part of the share capital of both companies (over 40 %) is in private hands. Both companies cannot be identified as one single entity and certainly the interests of a large part of the shareholders of Telecom Italia are clearly distinguishable from those of the future joint venture. The distinction between the interests of the service activities and the manufacturing activities within the STET group has been further reinforced in the framework of the reorganization of STET, through the creation of Tecnitel, a 100 % owned company of STET. Tecnitel constitutes a separate organizational level in the structure of the STET group whose main function is the supervision of the manufacturing activities of STET, including the planning, technical and economic control of the manufacturing

businesses and the exercise, on behalf of STET, of the voting rights in the shareholders meetings in the manufacturing companies. Furthermore, in the course of the proceedings, STET stated in writing that it would not interfere in the purchasing policy of Telecom Italia, more in particular with regard to the choice of suppliers, and that it will maintain a clear separation of the Boards of Directors, the CEO, and in general the management of Telecom Italia, Tecnitel and the companies of the Italtel group.

- (63) The structural characteristics of the public telecommunication markets described above, and the evidence gathered during the investigation, indicate that the entry of Siemens in the capital of Italtel will not result in a significant deterioration of the conditions of competition. The shareholder link between Siemens and STET and STET and Italtel is unlikely to have any major effect during the process of upgrading and extending of the existing network, since the decisions about the systems on which the network will be based have already been taken. This is further confirmed by the forecasts of revenues established by the parties for the joint venture, where most of the growth of the joint venture's turnover will be achieved through exports. The joint venture agreements set a target for the joint venture attain 40 % of its sales on export markets by 1997. Furthermore, none of the current competitors of the parties in Italy have approached the Commission during the second phase investigation to express serious concern as to maintaining their present position in Italy.
- (64) With regard to the longer term, and in particular to the introduction of new technologies, the markets for telecommunications equipment are in the process of transformation due to (i) the possible development of large markets because of technological developments, (ii) the fact that the effects of standardization and public procurement legislation will progressively have a larger impact in opening up national markets, (iii) the further progress towards liberalization of services and, foremost, the liberalization of infrastructures which will lead more and more to the creation of a worldwide market for public telecommunications equipment. The effects of the combination of these developments have already been seen in the area of mobile communications, where the definition of a European standard (GSM), the liberalization of services and the liberalization of infrastructures have resulted today in the creation of a European, if not worldwide, market for the supply of telecommunication equipment.

Mobile radio networks

- (65) In mobile radio the market share of Italtel in the last three years has been declining (from 64 % in

1990/91 to 39 % in 1992/93), while Siemens has reached a 6 % market share in 1992/93. The main competitors of the parties are Ericsson with a market share of 41 % in 1992/93 and Alcatel with a market share of around 10 %.

Furthermore the market for mobile radio networks in Italy has been opened to competition with the introduction of a second GSM mobile phone operator Omnitel-Pronto Italia Consortium which has been awarded the contract by the Italian Government after bidding.

From the investigation carried out in the European countries already opened to competition it can be stated that the access of a second mobile phone operator for GSM in Italy will have a significant impact on the competitive situation of the market of the equipment for mobile radio. In fact it is the usual practice of the new operators to build their own infrastructure for the provision of mobile telecommunication services utilizing the equipment of a variety of manufacturers. Some of the GSM operators have more than one supplier for each of the various parts of the mobile radio infrastructure (switching, base station, microwave equipment and terminals).

GSM is an autonomous network, interfacing with the rest of the telecommunication infrastructure at clearly defined points. GSM architecture has been defined in the GSM recommendations promulgated by ETSI and adopted as national standards in the EEA countries. The clear architecture and interface structure of GSM have had the effect of creating a truly European-wide (and subsequently worldwide) market for the equipment.

Generally the suppliers of infrastructure are chosen on a worldwide basis via tenders. A lot of suppliers were invited to tender for contracts. These include Siemens, Ericsson, Sel-Alcatel, Nokia, Motorola, Matra, AT&T, Northern Telecom and Orbitel.

The more common criteria followed by GSM operators to award contracts to suppliers are :

- technology,
- reputation of the supplier,
- price,
- engineering and technical knowledge,
- ability to meet delivery requirements.

The choice of equipment is crucial for the competitiveness of the service of GSM operators. Even if the market of the service has a strong local component, the market for GSM's equipment is worldwide.

(B) Private telecommunication equipment

- (66) With regard to private telecommunication equipment, for the segment of PBX, KTS and related terminals, the market share of Italtel has been declining (from 22,9 % in 1990/91 to 17 % in 1992/93), while Siemens had a market share of 9 % in 1992/93. In compliance with the Commission Directive 88/301/EEC of 16 May 1988 on competition in the markets in telecommunications terminal equipment⁽¹⁾, the individual markets are now fully liberalized. There is a large number of manufacturers which are active on the market. In line with the fragmented production sector, distribution is carried out by a large number of sellers.
- (67) With regard to private telecommunication equipment, the customers contacted in the investigation have stated that, even after the completion of the transaction, they will continue to have a sufficient number of alternative suppliers to purchase from. Generally they have indicated that they purchase through SIP, which has given them the possibility of choosing the products of different manufacturers (Siemens, Alcatel, Italtel, Ericsson). They have also indicated that there are other potential suppliers like Philips, Olivetti, IBM and Northern Telecom. The competitors contacted by the Commission have in general stated that they do not face any major obstacle to selling in Italy.
- (68) The position of the merged entity in any of the private telecommunication equipment markets is comparatively weaker than in the public telecommunication sector in terms of market shares. Also, Italtel has lost significantly in its market share in the last three years. Even though SIP continues to enjoy a very strong position as a distributor direct sales from suppliers to customers are possible in the absence of legal barriers. The competitors have stated that they can address the Italian market selling directly or through channels of distribution other than SIP, like independent distributors.

VII. CONCLUSION

- (69) For the reasons outlined above, the Commission considers that the proposed concentration does not lead to the creation or reinforcement of a dominant position in any of the markets identified above in the sectors of public and private telecommunication equipment, as a result of which effective competition would be significantly impeded in the common market within the meaning of Article 2 (3) of Regulation (EEC) No 4064/89. The concentration can therefore be declared compatible with the common market,

HAS ADOPTED THIS DECISION :

Article 1

The proposed concentration between STET and Siemens is declared compatible with the common market and the functioning of the EEA Agreement.

Article 2

This Decision is addressed to :

STET Società Finanziaria Telefonica SpA
Corso d'Italia 41
I-00198 Roma

and

Siemens Aktiengesellschaft
Wittelsbacherplatz 2
D-80333 München

Done at Brussels, 17 February 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 131, 27. 5. 1988, p. 73.

COMMISSION DECISION

of 23 June 1995

approving the single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Bremen (Federal Republic of Germany), in respect of Objective 5a, covering the period between 1994 and 1999

(Only the German text is authentic)

(95/256/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 866/90 of 29 March 1990 on improving the processing and marketing conditions for agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2843/94⁽²⁾, and in particular Article 10a thereof,

Whereas on 29 April 1994 the German Government submitted to the Commission the single programming document referred to in Article 10a of Regulation (EEC) No 866/90 for the *Land* of Bremen, supplemented by additional information sent on 29 September 1994 and 21 February 1995; whereas that document contains the plans designed to improve the structures relating to the various product sectors referred to in Article 2 (1) of Regulation (EEC) No 866/90 and the aid applications referred to in Article 10a of that Regulation;

Whereas the single programming document meets the conditions of and contains the information required in Article 1 (3) of Commission Regulation (EC) No 860/94 of 18 April 1994 on plans and applications in the form of operational programmes for aid from the Guidance Section of the EAGGF for investments for improving the processing and marketing conditions for agricultural and forestry products⁽³⁾;

Whereas the single programming document was drawn up in agreement with the Member State concerned under the partnership as defined in Article 4 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁴⁾, as amended by Regulation (EC) No 3193/94⁽⁵⁾;

Whereas the second indent of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrange-

ments for using the ecu for the purposes of the budgetary management of the Structural Funds⁽⁶⁾, as amended by Regulation (EC) No 2745/94⁽⁷⁾, provides that in Commission decisions approving single programming documents, the Community assistance decided upon for the entire period and the annual breakdown thereof are to be set out in ecus, at prices for the year in which the decision is taken, and are to be subject to indexation; whereas the annual breakdown must be compatible with the progressive increase in commitment appropriations as set out in Annex II to Regulation (EEC) No 2052/88 as amended; whereas the indexation is to be based on a single rate per year corresponding to the rates applied annually to the Community budget on the basis of the mechanisms for technical adjustment of the financial perspectives;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽⁸⁾, as last amended by Council Regulation (ECSC, EC, Euratom) No 2730/94⁽⁹⁾, provides that the legal commitments entered into for measures extending over more than one financial year are to contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas, during the implementation of the single programming document, the Member State will ensure that the individual projects included therein will conform with the selection criteria for investments for improving the processing and marketing conditions for agricultural products currently in force, in application of Article 8 (1) of Regulation (EEC) No 866/90;

Whereas in order to ensure clarity over the whole of the conditions governing the implementation of Regulation (EEC) No 866/90 in Germany this Member State will submit to the Commission, before 15 June 1995, a consolidated version of the single planning document showing the agreement reached by the partnership, as set out

⁽¹⁾ OJ No L 91, 6. 4. 1990, p. 1.

⁽²⁾ OJ No L 302, 25. 11. 1994, p. 1.

⁽³⁾ OJ No L 99, 19. 4. 1994, p. 7.

⁽⁴⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁵⁾ OJ No L 337, 24. 12. 1994, p. 11.

⁽⁶⁾ OJ No L 170, 3. 7. 1990, p. 36.

⁽⁷⁾ OJ No L 290, 11. 11. 1994, p. 4.

⁽⁸⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁹⁾ OJ No L 293, 12. 11. 1994, p. 7.

within the document annexed to the present Decision ⁽¹⁾; whereas this consolidated version must contain all the information required in accordance with Article 10a of Regulation (EEC) No 866/90 and Articles 8, 9, 10 and 14 of Council Regulation (EEC) No 4253/88 ⁽²⁾;

Whereas Article 9 (3) of Regulation (EEC) No 4253/88 states that the Member States will supply the Commission with the appropriate financial information to permit it to verify that the principle of additionality has been respected; whereas analysis of the information supplied by the German authorities shows that this principle has been taken into account; whereas supplementary verification of the respect of the principle should be made on the basis of information to be supplied with the consolidated version of the single programming document; whereas, in addition, the verification that this principle continues to be respected will be pursued in the framework of partnership during the implementation of the single programming document; whereas these verifications are essential for the continuation of EAGGF aid to the measures concerned in the present Decision;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS DECISION:

Article 1

The single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Bremen, covering the period 1 January 1994 to 31 December 1999, is hereby approved.

Article 2

The sector included for joint action is the meat sector.

Article 3

The assistance from the EAGGF granted in respect of that single programming document shall amount to a maximum of ECU 670 000.

The methods of approval of the financial assistance, including the EAGGF contribution to the sectors adopted for joint action, are specified within the implementation

provisions and the financial plans annexed to the present Decision ⁽³⁾.

Article 4

For the purposes of indexation, the annual breakdown of the planned maximum overall allocation for assistance from the EAGGF shall be as follows:

<i>ECU (1995 indexed prices)</i>	
1994	107 000
1995	127 000
1996	95 000
1997	105 000
1998	114 000
1999	122 000
Total	670 000

Article 5

The budget commitment for the first tranche shall be ECU 107 000.

The commitments for subsequent tranches shall be based on the financing plan for the single programming document and on progress made in implementation.

Article 6

The Community assistance shall relate only to expenditure connected with operations covered by this single programming document which have been the subject, in the Member State, of legally binding provisions and for which the necessary funds have been specifically committed by 31 December 1999 at the latest. The deadline for the entry in the accounts of expenditure on such measures shall expire on 31 December 2001.

Article 7

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ Annex not published in the Official Journal.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ Annex not published in the Official Journal.

COMMISSION DECISION

of 23 June 1995

approving the single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Saarland (Federal Republic of Germany), in respect of Objective 5a, covering the period between 1994 and 1999

(Only the German text is authentic)

(95/257/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 866/90 of 29 March 1990 on improving the processing and marketing conditions for agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2843/94⁽²⁾, and in particular Article 10a thereof,

Whereas on 29 April 1994 the German Government submitted to the Commission the single programming document referred to in Article 10a of Regulation (EEC) No 866/90 for the *Land* of Saarland, supplemented by additional information sent on 19 July, 5 August, 8 September, 28 October 1994 and on 7 March 1995; whereas that document contains the plans designed to improve the structures relating to the various product sectors referred to in Article 2 (1) of Regulation (EEC) No 866/90 and the aid applications referred to in Article 10a of that Regulation;

Whereas the single programming document meets the conditions of and contains the information required in Article 1 (3) of Commission Regulation (EC) No 860/94 of 18 April 1994 on plans and applications in the form of operational programmes for aid from the Guidance Section of the EAGGF for investments for improving the processing and marketing conditions for agricultural and forestry products⁽³⁾;

Whereas the single programming document was drawn up in agreement with the Member State concerned under the partnership as defined in Article 4 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁴⁾, as amended by Regulation (EC) No 3193/94⁽⁵⁾;

Whereas the second indent of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrange-

ments for using the ecu for the purposes of the budgetary management of the Structural Funds⁽⁶⁾, as amended by Regulation (EC) No 2745/94⁽⁷⁾, provides that in Commission decisions approving single programming documents, the Community assistance decided upon for the entire period and the annual breakdown thereof are to be set out in ecus, at prices for the year in which the decision is taken, and are to be subject to indexation; whereas the annual breakdown must be compatible with the progressive increase in commitment appropriations as set out in Annex II to Regulation (EEC) No 2052/88 as amended; whereas the indexation is to be based on a single rate per year corresponding to the rates applied annually to the Community budget on the basis of the mechanisms for technical adjustment of the financial perspectives;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽⁸⁾, as last amended by Council Regulation (ECSC, EC, Euratom) No 2730/94⁽⁹⁾, provides that the legal commitments entered into for measures extending over more than one financial year are to contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas, during the implementation of the single programming document, the Member State will ensure that the individual projects included therein will conform with the selection criteria for investments for improving the processing and marketing conditions for agricultural products currently in force, in application of Article 8 (1) of Regulation (EEC) No 866/90;

Whereas in order to ensure clarity over the whole of the conditions governing the implementation of Regulation (EEC) No 866/90 in Germany this Member State will submit to the Commission, before 15 June 1995, a consolidated version of the single planning document showing the agreement reached by the partnership, as set out

⁽¹⁾ OJ No L 91, 6. 4. 1990, p. 1.

⁽²⁾ OJ No L 302, 25. 11. 1994, p. 1.

⁽³⁾ OJ No L 99, 19. 4. 1994, p. 7.

⁽⁴⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁵⁾ OJ No L 337, 24. 12. 1994, p. 11.

⁽⁶⁾ OJ No L 170, 3. 7. 1990, p. 36.

⁽⁷⁾ OJ No L 290, 11. 11. 1994, p. 4.

⁽⁸⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁹⁾ OJ No L 293, 12. 11. 1994, p. 7.

within the document annexed to the present Decision ⁽¹⁾; whereas this consolidated version must contain all the information required in accordance with Article 10a of Regulation (EEC) No 866/90 and Articles 8, 9, 10 and 14 of Council Regulation (EEC) No 4253/88 ⁽²⁾;

Whereas Article 9 (3) of Regulation (EEC) No 4253/88 states that the Member States will supply the Commission with the appropriate financial information to permit it to verify that the principle of additionality has been respected; whereas analysis of the information supplied by the German authorities shows that this principle has been taken into account; whereas supplementary verification of the respect of the principle should be made on the basis of information to be supplied with the consolidated version of the single programming document; whereas, in addition, the verification that this principle continues to be respected will be pursued in the framework of partnership during the implementation of the single programming document; whereas these verifications are essential for the continuation of EAGGF aid to the measures concerned in the present Decision;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS DECISION:

Article 1

The single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Saarland, covering the period 1 January 1994 to 31 December 1999, is hereby approved.

Article 2

The sector included for joint action is the meat sector.

Article 3

The assistance from the EAGGF granted in respect of that single programming document shall amount to a maximum of ECU 3 139 000.

The methods of approval of the financial assistance, including the EAGGF contribution to the sectors adopted for joint action, are specified within the implementation

provisions and the financial plans annexed to the present Decision ⁽³⁾.

Article 4

For the purposes of indexation, the annual breakdown of the planned maximum overall allocation for assistance from the EAGGF shall be as follows:

<i>ECU (1995 indexed prices)</i>	
1994	498 000
1995	596 000
1996	447 000
1997	491 000
1998	533 000
1999	574 000
Total	3 139 000

Article 5

The budget commitment for the first tranche shall be ECU 498 000.

The commitments for subsequent tranches shall be based on the financing plan for the single programming document and on progress made in implementation.

Article 6

The Community assistance shall relate only to expenditure connected with operations covered by this single programming document which have been the subject, in the Member State, of legally binding provisions and for which the necessary funds have been specifically committed by 31 December 1999 at the latest. The deadline for the entry in the accounts of expenditure on such measures shall expire on 31 December 2001.

Article 7

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ Annex not published in the Official Journal.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ Annex not published in the Official Journal.

COMMISSION DECISION

of 26 June 1995

approving the single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Schleswig-Holstein (Federal Republic of Germany), in respect of Objective 5a, covering the period between 1994 and 1999

(Only the German text is authentic)

(95/258/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 866/90 of 29 March 1990 on improving the processing and marketing conditions for agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2843/94⁽²⁾, and in particular Article 10a thereof,

Whereas on 29 April 1994 the German Government submitted to the Commission the single programming document referred to in Article 10a of Regulation (EEC) No 866/90 for the *Land* of Schleswig-Holstein, supplemented by additional information sent on 22 June, 12 August and 6 September 1994; whereas that document contains the plans designed to improve the structures relating to the various product sectors referred to in Article 2 (1) of Regulation (EEC) No 866/90 and the aid applications referred to in Article 10a of that Regulation;

Whereas the single programming document meets the conditions of and contains the information required in Article 1 (3) of Commission Regulation (EC) No 860/94 of 18 April 1994 on plans and applications in the form of operational programmes for aid from the Guidance Section of the EAGGF for investments for improving the processing and marketing conditions for agricultural and forestry products⁽³⁾;

Whereas the single programming document was drawn up in agreement with the Member State concerned under the partnership as defined in Article 4 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁴⁾, as amended by Regulation (EC) No 3193/94⁽⁵⁾;

Whereas the second indent of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrange-

ments for using the ecu for the purposes of the budgetary management of the Structural Funds⁽⁶⁾, as amended by Regulation (EC) No 2745/94⁽⁷⁾, provides that in Commission decisions approving single programming documents, the Community assistance decided upon for the entire period and the annual breakdown thereof are to be set out in ecus, at prices for the year in which the decision is taken, and are to be subject to indexation; whereas the annual breakdown must be compatible with the progressive increase in commitment appropriations as set out in Annex II to Regulation (EEC) No 2052/88 as amended; whereas the indexation is to be based on a single rate per year corresponding to the rates applied annually to the Community budget on the basis of the mechanisms for technical adjustment of the financial perspectives;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽⁸⁾, as last amended by Council Regulation (ECSC, EC, Euratom) No 2730/94⁽⁹⁾, provides that the legal commitments entered into for measures extending over more than one financial year are to contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas, during the implementation of the single programming document, the Member State will ensure that the individual projects included therein will conform with the selection criteria for investments for improving the processing and marketing conditions for agricultural products currently in force, in application of Article 8 (1) of Regulation (EEC) No 866/90;

Whereas in order to ensure clarity over the whole of the conditions governing the implementation of Regulation (EEC) No 866/90 in Germany this Member State will submit to the Commission, before 15 June 1995, a consolidated version of the single planning document showing the agreement reached by the partnership, as set out

⁽¹⁾ OJ No L 91, 6. 4. 1990, p. 1.

⁽²⁾ OJ No L 302, 25. 11. 1994, p. 1.

⁽³⁾ OJ No L 99, 19. 4. 1994, p. 7.

⁽⁴⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁵⁾ OJ No L 337, 24. 12. 1994, p. 11.

⁽⁶⁾ OJ No L 170, 3. 7. 1990, p. 36.

⁽⁷⁾ OJ No L 290, 11. 11. 1994, p. 4.

⁽⁸⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁹⁾ OJ No L 293, 12. 11. 1994, p. 7.

within the document annexed to the present Decision ⁽¹⁾; whereas this consolidated version must contain all the information required in accordance with Article 10a of Regulation (EEC) No 866/90 and Articles 8, 9, 10 and 14 of Council Regulation (EEC) No 4253/88 ⁽²⁾;

Whereas Article 9 (3) of Regulation (EEC) No 4253/88 states that the Member States will supply the Commission with the appropriate financial information to permit it to verify that the principle of additionality has been respected; whereas analysis of the information supplied by the German authorities shows that this principle has been taken into account; whereas supplementary verification of the respect of the principle should be made on the basis of information to be supplied with the consolidated version of the single programming document; whereas, in addition, the verification that this principle continues to be respected will be pursued in the framework of partnership during the implementation of the single programming document; whereas these verifications are essential for the continuation of EAGGF aid to the measures concerned in the present Decision;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS DECISION:

Article 1

The single programming document for Community structural measures for improving the processing and marketing conditions for agricultural products in Schleswig-Holstein, covering the period 1 January 1994 to 31 December 1999, is hereby approved.

Article 2

The sectors included for joint action are:

- fruits and vegetables,
- flowers and plants.

Article 3

The assistance from the EAGGF granted in respect of that single programming document shall amount to a maximum of ECU 3 058 000.

The methods of approval of the financial assistance, including the EAGGF contribution to the sectors adopted

for joint action, are specified within the implementation provisions and the financial plans annexed to the present Decision ⁽³⁾.

Article 4

For the purposes of indexation, the annual breakdown of the planned maximum overall allocation for assistance from the EAGGF shall be as follows:

<i>ECU (1995 indexed prices)</i>	
1994	485 000
1995	581 000
1996	435 000
1997	478 000
1998	520 000
1999	559 000
Total	3 058 000

Article 5

The budget commitment for the first tranche shall be ECU 485 000.

The commitments for subsequent tranches shall be based on the financing plan for the single programming document and on progress made in implementation.

Article 6

The Community assistance shall relate only to expenditure connected with operations covered by this single programming document which have been the subject, in the Member State, of legally binding provisions and for which the necessary funds have been specifically committed by 31 December 1999 at the latest. The deadline for the entry in the accounts of expenditure on such measures shall expire on 31 December 2001.

Article 7

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 26 June 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ Annex not published in the Official Journal.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽³⁾ Annex not published in the Official Journal.