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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2196/95**of 18 September 1995****amending Regulation (EEC) No 2191/81 on the granting of aid for the purchase of butter by non-profit-making institutions and organizations**

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⁾, and in particular Article 12 (3) thereof,

Whereas Commission Regulation (EEC) No 2191/81⁽³⁾, as last amended by Regulation (EC) No 455/95⁽⁴⁾, provides for the granting of aid for the purchase of butter by non-profit-making institutions and organizations; whereas New Zealand butter sold in the United Kingdom may benefit from a reduced rate of duty provided that it fulfils the conditions for categorization as first-class quality in that Member State; whereas the preferential import system for New Zealand butter is consolidated from 1 July 1995 under the Agriculture Agreement concluded during the Uruguay Round of multilateral trade negotiations; whereas Regulation (EC) No 1600/95 of 30 June 1995 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products⁽⁵⁾, as amended by Regulation (EC) No 1763/95⁽⁶⁾, fixes the rate of duty applicable to New Zealand butter imported within the

tariff quota; whereas, therefore, Regulation (EEC) No 2191/81 should be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 (3) of Regulation (EEC) No 2191/81 is hereby replaced by the following:

'3. The aid referred to in paragraph 1 shall not be granted in addition to the reduction in duty on New Zealand butter referred to in Annex I of Commission Regulation (EC) No 1600/95^(*). The amount of aid referred to in paragraph 1 shall therefore be reduced by the amount of the difference between the Common Customs Tariff duty for butter and the reduced duty.

(*) OJ No L 151, 1. 7. 1995, p. 12.'

Article 2

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

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

Done at Brussels, 18 September 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 213, 1. 8. 1981, p. 20.

⁽⁴⁾ OJ No L 46, 1. 3. 1995, p. 31.

⁽⁵⁾ OJ No L 151, 1. 7. 1995, p. 12.

⁽⁶⁾ OJ No L 171, 21. 7. 1995, p. 36.

COMMISSION REGULATION (EC) No 2197/95

of 18 September 1995

amending the Annexes to Council Regulations (EEC) No 837/90 concerning statistical information to be supplied by the Member States on cereal production and (EEC) No 959/93 concerning statistical information to be supplied by the Member States on crop products other than cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 837/90 of 26 March 1990 concerning statistical information to be supplied by the Member States on cereal production⁽¹⁾, as amended by Regulation (EEC) No 3570/90⁽²⁾, and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 959/93 of 5 April 1993 concerning statistical information to be supplied by the Member States on crop products other than cereals⁽³⁾, and in particular Article 10 thereof,

Whereas by reason of the accession of Austria, Finland and Sweden it is necessary to make certain technical adaptations to the abovementioned annexes and to extend certain derogations to the new Member States;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Agricultural Statistics set up by Council Decision 72/279/EEC⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III of Council Regulation (EEC) No 837/90 shall be supplemented as follows:

'Austria : Bundesländer

Finland : Etelä-Suomi
Sisä-Suomi
Pohjanmaa
Pohjois-Suomi
Sweden : 8 Riksområden'

Article 2

Footnote⁽⁵⁾ of Annex II in Council Regulation (EEC) No 959/93, shall read as follows:

'⁽⁵⁾ Delivery of data on areas occupied by kitchen gardens is not obligatory for Denmark, the Netherlands, Austria, Finland, Sweden and the United Kingdom.'

Article 3

Annex III of Council Regulation (EEC) No 959/93 shall be supplemented as follows:

'Austria : Bundesländer
Finland : Etelä-Suomi
Sisä-Suomi
Pohjanmaa
Pohjois-Suomi
Sweden : 8 Riksområden'

Article 4

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 18 September 1995.

For the Commission

Yves-Thibault DE SILGUY

Member of the Commission

⁽¹⁾ OJ No L 88, 3. 4. 1990, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 8.

⁽³⁾ OJ No L 98, 24. 4. 1993, p. 1.

⁽⁴⁾ OJ No L 179, 7. 8. 1972, p. 1.

COMMISSION REGULATION (EC) No 2198/95

of 18 September 1995

amending Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues⁽¹⁾, and in particular Article 8 thereof,

Whereas the Agreement on Agriculture concluded under the Uruguay Round of multilateral trade negotiations and approved by the Council Decision of 22 December 1994⁽²⁾ affects the quota provided for in Article 1 of Regulation (EC) No 774/94 and other conditions relating to the quotas covered by that Regulation; whereas it should be adapted accordingly;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 6 of Regulation (EC) No 774/94 are hereby replaced by the following:

Article 1

1. An annual Community tariff quota of a total of 20 000 tonnes, expressed in product weight, is hereby opened for high-quality fresh, chilled or frozen beef covered by CN codes 0201 and 0202 and for the products covered by CN codes 0206 10 95 and 0206 29 91.
2. The Common Customs Tariff duty applicable to that quota shall be 20 %.

Article 2

1. An annual Community tariff quota of a total of 7 000 tonnes is hereby opened for fresh, chilled or frozen pigmeat covered by CN codes 0203 19 13 and 0203 29 15.

2. The Common Customs Tariff duty applicable to that quota shall be 0 %.

Article 3

1. An annual Community tariff quota of a total of 15 500 tonnes is hereby opened for poultrymeat covered by CN codes 0207 41 10, 0207 41 41 and 0207 41 71.
2. The Common Customs Tariff duty applicable to that quota shall be 0 %.

Article 4

1. An annual Community tariff quota of a total of 2 500 tonnes is hereby opened for turkeymeat covered by CN codes 0207 42 10, 0207 42 11 and 0207 42 71.
2. The Common Customs Tariff duty applicable to that quota shall be 0 %.

Article 5

1. An annual Community tariff quota of a total of 300 000 tonnes is hereby opened for quality wheat covered by CN codes 1001 10 00 and 1001 90 99.
2. The Common Customs Tariff duty applicable to that quota shall be 0 %.

Article 6

1. An annual Community tariff quota of a total of 475 000 tonnes is hereby opened for brans, sharps and other residues of wheat and cereals other than maize and rice covered by CN codes 2302 30 10, 2302 30 90, 2302 40 10 and 2302 40 90.
2. The Common Customs Tariff duty applicable to that quota shall be ECU 30,60 per tonne in the case of products covered by CN codes 2302 30 10 and 2302 40 10 and ECU 62,25 per tonne in the case of products covered by CN codes 2302 30 90 and 2302 40 90.

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 July 1995.

⁽¹⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽²⁾ OJ No L 336, 23. 12. 1994, p. 1.

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2199/95

of 18 September 1995

on the transport for the free supply to Georgia, Armenia, Azerbaijan, Kyrgyzstan
and Tajikistan of common wheat flour

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1975/95 of 4 August 1995 on actions for the free supply of agricultural products to the people of Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Tajikistan⁽¹⁾, and in particular Article 4 (2) thereof,

Whereas, Commission Regulation (EC) No 2009/95⁽²⁾, established the detailed rules applicable to the free supply of agricultural products provided for by Council Regulation (EC) No 1975/95; whereas, it is appropriate to open a tendering procedure for the supply of 46 000 tonnes of common wheat flour intended for Georgia, Armenia, Azerbaijan, Kyrgyzstan and Tajikistan;

Whereas, in view of the present difficulties in these republics and the specific problems of forwarding aid to these regions, it is appropriate to organize the supply of the abovementioned products in four lots;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A tendering procedure is hereby initiated for the supply costs of 46 000 tonnes (net) of common wheat flour as indicated in Annex I, in accordance with the provisions of Regulation (EC) No 2009/95, and in particular Article 2 (1) (b) thereof. The invitation to tender relates to four lots.

2. The supply costs shall relate to the take-over at the stage laid down in paragraph 3 and transport by the appropriate means to the places of destination and within the time limits indicated in Annex I.

3. The flour will be made available for loading, free on board, stowed on the ship or wagon, in the following manner:

Lot No 1:

16 000 tonnes (net)

— 6 000 tonnes made available of which:

— 3 000 tonnes with effect from 16 October 1995 in the port of Antwerp,

— 3 000 tonnes with effect from 4 November 1995 at the station of Braunschweig;

— 10 000 tonnes made available in the port of Antwerp of which:

— 3 500 tonnes with effect from 24 October 1995,

— 3 500 tonnes with effect from 28 October 1995,

— 3 000 tonnes with effect from 1 November 1995;

Lot No 2:

10 000 tonnes (net) made available in the port of Venice (porto Marghera) of which:

— 3 500 tonnes with effect from 16 October 1995,

— 3 500 tonnes with effect from 20 October 1995,

— 3 000 tonnes with effect from 24 October 1995;

Lot No 3:

10 000 tonnes (net)

— 7 000 tonnes made available in the port of Rouen of which:

— 3 500 tonnes with effect from 1 November 1995,

— 3 500 tonnes with effect from 2 November 1995;

— 3 000 tonnes made available in the port of Trieste with effect from 18 October 1995.

Lot No 4:

10 000 tonnes (net)

— 7 000 tonnes made available in the port of Antwerp of which:

— 3 500 tonnes with effect from 20 October 1995,

— 3 500 tonnes with effect from 30 October 1995;

— 3 000 tonnes made available in the port of Antwerp with effect from 20 October 1995.

After the expiry of ten days following the dates mentioned above, the successful tenderer shall be required to reimburse to the Commission the costs which it will have borne to cover the costs (waiting, insurance, security, guarantees etc.) referred to at Article 6 (1) (e) (4) of Regulation (EC) No 2009/95.

Article 2

1. In accordance with Article 4 of Regulation (EC) No 2009/95 the offers shall be presented to the following address:

⁽¹⁾ OJ No L 191, 12. 8. 1995, p. 2.

⁽²⁾ OJ No L 196, 19. 8. 1995, p. 4.

Commission of the European Communities,
EAGGF-Guarantee,
Division VI/G.2 (Office 10/05 or 10//08),
Rue de la Loi/Wetstraat 130,
B-1049 Bruxelles/Brussel.

The closing date for the lodgement of tenders shall be 2 October 1995 at 5 p.m. (Brussels time).

In the case of non-acceptance of offers on 2 October, a second closing date for the lodgement of offers shall be 12 October 1995 at 12 noon (Brussels time).

In this case all of the dates referred to in Article 1 and Annex I shall be carried forward by 10 days.

2. The offer shall relate to the supply of the total of the quantities of a lot referred to in Article 1 (3).

Tenderers, where appropriate, shall take account of the unloading and transit prices referred to in Annex V. If upon the establishment of the Memoranda these prices must be changed, the differences will be accounted for by an adjustment to the price of the offer.

3. The tendering security referred to in Article 6 (1) (f) of Regulation (EC) No 2009/95 is fixed at ECU 25 per tonne of flour.

4. The security referred to in Article 8 (2) of Regulation (EC) No 2009/95 is fixed at ECU 380 per tonne of flour.

Article 3

The take-over certificate referred to in the second indent of Article 10 (1) (a) of Regulation (EC) No 2009/95 shall be established at the places and by the authorities referred to in Annex II, on the basis of the model in Annex IV and, where applicable, Annex IV (a).

Article 4

For the payment provided for at Article 13 of Regulation (EC) No 2009/95, the designated control agency shall deliver, upon completion of that operation, a certificate certifying the total removal of the quantities for each destination, countersigned by the producer of the flour or his representative, in accordance with the model in Annex III.

Article 5

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

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Lot No 1

KYRGYZSTAN: 6 000 tonnes (net) of common wheat flour.

Delivery stage:

Goods not unloaded at the frontier points.

Final delivery date at the frontier points:

Kara-Su — 3 000 tonnes by 4 December 1995,

Lugovaya — 3 000 tonnes by 18 December 1995.

TADJIKISTAN: 10 000 tonnes (net) of common wheat flour.

Delivery stage:

Goods not unloaded at the frontier points.

Final delivery date at the frontier points:

Sari-Assia — 3 500 tonnes by 12 December 1995,

Amusang — 3 500 tonnes by 16 December 1995,

Bekabad — 3 000 tonnes by 20 December 1995.

Lot No 2

AZERBAIJAN: 7 000 tonnes (net) of common wheat flour.

Delivery stage:

Beiuk-Kesik via the ports of Poti or Batumi (Goods not unloaded).

Final delivery date at the port:

— 3 500 tonnes by 6 November 1995,

— 3 500 tonnes by 10 November 1995.

ARMENIA: 3 000 tonnes (net) of common wheat flour.

Delivery stage:

Airum via the ports of Poti or Batumi (Goods not unloaded).

Final delivery date at the port:

by 14 November 1995.

Lot No 3

AZERBAIJAN: 3 500 tonnes (net) of common wheat flour.

Delivery stage:

Nakhichevan via the ports of Turkey (Goods not unloaded).

Final delivery date at the port:

by 27 November 1995.

GEORGIA: 6 500 tonnes (net) of common wheat flour.

Delivery stage:

Poti or Batumi (Goods unloaded).

Final delivery date at the port:

— 3 500 tonnes by 22 November 1995,

— 3 500 tonnes by 8 November 1995.

Lot No 4

ARMENIA : 6 500 tonnes (net) of common wheat flour.

Delivery stage :

Airum via the ports of Poti or Batumi (Goods not unloaded).

Final delivery date at the port :

— 3 500 tonnes by 20 November 1995,

— 3 000 tonnes by 6 December 1995.

GEORGIA : 3 500 tonnes (net) of common wheat flour.

Delivery stage :

Poti or Batumi (Goods unloaded).

Final delivery date at the port :

by 28 November 1995.

For lot Nos 2, 3 and 4 the choice of the port of Poti or Batumi shall be managed by the Commission in accordance with the availability of quays.

*ANNEX II***(a) Place of take-over in Kyrgyzstan :**

1. Karu-Su and Lugovaya — Goods not unloaded.

However, for the wagons of which the seals affixed by the representatives of the Commission are not intact at the designated frontier points, the take-over certificates may not be issued until after unloading and the quantitative and qualitative control of the goods to be effected at the first station inside the country at which unloading is possible.

2. Authority entitled to deliver the take-over certificate :

The National Resource Foundation,
Goskomreserv,
Lev Tolstoy Street, 234,
Bishkek.

(b) Place of take-over in Tajikistan :

1. Frontier points of Sari-Assia, Amuzang and Bekabad — goods not unloaded.

However, for the wagons of which the seals affixed by the representatives of the Commission are not intact at the designated frontier points, the take-over certificates may not be issued until after unloading and the quantitative and qualitative control of the goods to be effected at the first station inside the country at which unloading is possible.

2. Authority entitled to deliver the take-over certificate :

Ministry of Trade and Material Resources,
of the Republic of Tajikistan,
Dushanbe,
Ul. Bochtar No 37.

(c) Place of take-over in Georgia :

1. Port of Poti or Batumi — goods unloaded.

2. Authority entitled to deliver the take-over certificate :

Gossudarstvenaya Korporatsiya Chleboproductov,
Ul. Didi Cheivani No 6,
Tbilisi,
Mr Anzar Burdjanadze,
Tel. : (78832) 99 86 98 ; fax : (78832) 99 67 40.

(d) Place of take-over in Armenia :

1. Airum — Goods not unloaded.

The quantitative and qualitative controls will be carried out at the time of sealing the rail-wagons at Poti or Batumi. The take-over certificate will be issued on arrival at the abovementioned station after verification of the integrity of the seals and the number of wagons.

2. Authority entitled to deliver the take-over certificate :

Ministry of Agriculture and Food,
375010 Yerevan,
Dom Pravitelstva,
Ploshad Respubliki 1.

(e) Place of take-over in Azerbaijan :

1. Beiuk-Kesik-Nakhitchevan — Goods not unloaded.

The quantitative and qualitative controls will be carried out at the time of sealing the rail-wagons at Poti or Batumi. The take-over certificate will be issued on arrival at the abovementioned station after verification of the integrity of the seals and the number of wagons.

2. Authority entitled to deliver the take-over certificate :

Gossudarstvenaya Kompaniya Chleboproductov,
370033 Baku,
Ul. Usif Zaade No 13,
Mr F.R. Mustafaev — President,
Tel. : (7-8922) 66 74 51/66 38 20.

ANNEX III

Regulation (EC) No 2199/95

CERTIFICATE OF REMOVAL

I, the undersigned
(name/first name/position)

acting on behalf of

certify that the following goods have been taken over :

Product :	
Packaging :	
Total quantity in tonnes (net): (gross) :	
Number of Big-Bags :	
Place and date of takeover :	
Name of boat :	
Name and address of transport company :	

Name and address of the monitoring agency :

.....
.....

Name and signature of its on the spot representative :

.....
.....

Observations or remarks :

.....
.....
.....
.....

Signature and stamp
of the producer

.....

—

ANNEX IV

Regulation (EC) No 2199/95

TAKE-OVER CERTIFICATE AT THE PORT OF POTI/BATUMI

I, the undersigned
 (name/first name/position)

acting on behalf of

certify that the following goods have been taken over :

Product :	
Packaging :	
Total quantity in tonnes (net) : (gross) :	
Number of Big-Bags :	
Place and date of take-over :	
Name of boat :	
Name and address of transport company :	

Name and address of monitoring agency :

.....

Name and signature of its on-the-spot representative :

.....

Observations or remarks :

.....

Signature and stamp
 of the Georgian authorities

Signature and stamp
 of the authorities

.....

.....

ANNEX IV (a)

Regulation (EC) No 2199/95

Train No

TAKE-OVER CERTIFICATE ON THE ARRIVAL OF THE RAIL-WAGONS IN THE COUNTRIES OF DESTINATION

I, the undersigned
(name/first name/position)

acting on behalf of

certify that the goods indicated below have been taken over :

Type of product :

Place and date of takeover :

Wagon numbers	Seal numbers	Quantity (net weight)	Number of packets	Date frontier crossed	Quantities Signature and remarks ⁽¹⁾
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

⁽¹⁾ To be completed only for the wagons which have been the subject of a check, inserting the weight found.

Name and address of the transport company :

Name and address of the monitoring agency :

Observations and remarks :
.....

Representative of monitoring agency
Name, signature and stamp

Name, signature and stamp of the beneficiary

.....
.....

.....
.....

ANNEX V

Transit Prices on Georgian Territory

ARMENIA

Products	Discharging cost (per tonne)	Transport cost including security of the cargo (per tonne)		Administration cost (per lot)
		Poti	Batumi	
Grain	US \$ 4 US \$ 5,5	US \$ 14	US \$ 16	US \$ 120
— grab				
— vacuvator				
General cargo in covered wagons	US \$ 6	US \$ 14	US \$ 16	US \$ 120
Thermos Wagons	US \$ 6	US \$ 30	US \$ 34	US \$ 120

AZERBAIJAN

Products	Discharging cost (per tonne)	Transport cost including security of the cargo (per tonne)		Administration cost (per lot)
		Poti	Batumi	
Grain	US \$ 4 US \$ 5,5	US \$ 14,1	US \$ 15,5	US \$ 120
— grab				
— vacuvator				
General cargo in covered wagons	US \$ 6	US \$ 14,1	US \$ 15,5	US \$ 120
Thermos Wagons	US \$ 6	US \$ 29,8	US \$ 32,8	US \$ 120

GEORGIA

Products	Grain — grab	Grain — vacuvator	General cargo in covered wagons
Discharging cost (per tonne)	US \$ 3	US \$ 3,5	US \$ 5

COMMISSION REGULATION (EC) No 2200/95
of 18 September 1995
on the supply of cereals as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1930/90⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain beneficiaries 6 845 tonnes of cereals;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾, as amended by Regulation (EEC) No 790/91⁽⁵⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, for a given lot, given the small quantities to be supplied, the packaging methods and the large number of

destinations of the supplies, provision should be made for the possibility for tenderers to indicate two ports of loading, where necessary not belonging to the same port area,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annexes, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

For lot A, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX I

LOT A

1. **Operation Nos** ⁽¹⁾: see Annex II
2. **Programme**: 1994 + 1995
3. **Recipient** ⁽²⁾: Euronaid PO Box 12, NL-2501 CA Den Haag (tel. (31 70) 330 57 57; fax 364 17 01; telex 30960 EURON NL)
4. **Representative of the recipient** ⁽³⁾: to be designated by the recipient
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: milled rice (product code 1006 30 92 900, 1006 30 94 900, 1006 30 96 900)
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁷⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIA (1) (f))
8. **Total quantity**: 2 852 tonnes (6 845 tonnes of cereals)
9. **Number of lots**: 1; see Annex II
10. **Packaging and marking** ⁽⁶⁾ ⁽⁸⁾ ⁽¹⁰⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIA (2) (c) and IIA (3))
Language to be used for the marking: see Annex II
A5: supplementary markings: 'Expiry date:...' (production date + 12 months)
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment ⁽¹¹⁾
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 30. 10 — 19. 11. 1995
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 3. 10. 1995
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 17. 10. 1995
 - (b) period for making the goods available at the port of shipment: 13. 11 — 3. 12. 1995
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, 200 rue de la Loi/Wetstraat, B-1049 Bruxelles/Brussel (telex 22037 AGREC B; fax (32 2) 296 20 05 / 295 01 32 / 296 10 97)
25. **Refund payable on request by the successful tenderer** ⁽⁴⁾: refund applicable on 30. 9. 1995, fixed by Commission Regulation (EC) No 2091/95 (OJ No L 206, 1. 9. 1995, p. 25)

Notes :

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

A5 : Radiation certificate and certificate of origin must be issued by official authorities and be legalized for the following country : Egypt.

- (⁴) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 25. 7. 1989, p. 10), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 25 of this Annex.

The amount of the refund shall be converted into national currency by applying the agricultural conversion rate applicable on the day of completion of the customs export formalities. The provisions of Articles 13 to 17 of Commission Regulation (EEC) No 1068/93 (OJ No L 108, 1. 5. 1993, p. 106), as last amended by Regulation (EC) No 1053/95 (OJ No L 107, 12. 5. 1995, p. 4) shall not apply to this amount.

- (⁵) The supplier should send a duplicate of the original invoice to Willis Corroon Scheuer, PO box 1315, NL-1000 Amsterdam.
- (⁶) Shipment to take place in 20-foot containers, condition FCL/FCL. The supplier shall be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The provisions of Article 13 (2), second paragraph, of Regulation (EEC) No 2200/87 shall not apply.

The successful tenderer has to submit to the recipient's agent a complete packing list of each container, specifying number of bags belonging to each shipping number as specified in the invitation to tender.

The successful tenderer has to seal each container with a numbered locktainer (Sysko locktainer 180 seal), number of which to be provided to the beneficiary's forwarder.

- (⁷) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :
- phytosanitary certificate (A5 : and expiry date),
 - fumigation certificate (the cargo shall be fumigated with alumine phosphine).
- (⁸) Notwithstanding OJ No C 114, point IIA (3)(c) is replaced by the following : 'the words "European Community"'.
- (⁹) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (¹⁰) See second amendment to OJ No C 114 published in OJ No C 135, 26. 5. 1992, p. 20.
- (¹¹) For lot A, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.
-

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II —
ANEXO II — LIITE II — BILAGA II

Lote	Cantidad total (en toneladas)	Cantidades parciales (en toneladas)	Acción nº	País de destino	Lengua que se debe utilizar en la rotulación
Parti	Totalmængde (tons)	Delmængde (tons)	Aktion nr.	Bestemmelsesland	Mærkning på følgende sprog
Partie	Gesamtmenge (in Tonnen)	Teilmengen (in Tonnen)	Maßnahme Nr.	Bestimmungsland	Kennzeichnung in folgender Sprache
Παρτίδα	Συνολική ποσότητα (σε τόνους)	Μερικές ποσότητες (σε τόνους)	Δράση αριθ.	Χώρα προορισμού	Γλώσσα που πρέπει να χρησιμοποιηθεί για τη σήμανση
Lot	Total quantity (in tonnes)	Partial quantities (in tonnes)	Operation No	Country of destination	Language to be used for the marking
Lot	Quantité totale (en tonnes)	Quantités partielles (en tonnes)	Action nº	Pays de destination	Langue à utiliser pour le marquage
Lotto	Quantità totale (in tonnellate)	Quantitativi parziali (in tonnellate)	Azione n.	Paese di destinazione	Lingua da utilizzare per la marcatura
Partij	Totale hoeveelheid (in ton)	Deelhoeveelheden (in ton)	Maatregel nr.	Land van bestemming	Taal te gebruiken voor de opschriften
Lote	Quantidade total (em toneladas)	Quantidades parciais (em toneladas)	Ação nº	País de destino	Língua a utilizar na rotulagem
Erä	Kokonaismäärä (tonnia)	Osittaismäärä (tonnia)	Toimi N:o	Määrämaa	Merkinnässä käytettävä kieli
Parti	Total kvantitet (ton)	Delkvantitet (ton)	Aktion nr	Bestämmelsesland	Märkning på följande språk
A	2 852	A1: 216	1677/94	Haïti	Français
		A2: 350	1678/94	Haïti	Français
		A3: 900	1679/94	Haïti	Français
		A4: 486	151/95	Gambia	English
		A5: 360	152/95	Egypt	English
		A6: 540	196/95	Madagascar	Français

COMMISSION REGULATION (EC) No 2201/95
of 18 September 1995
correcting Regulation (EC) No 2151/95 on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1930/90⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Commission Regulation (EC) No 2151/95 of 8 September 1995 on the supply of vegetable oil as food aid⁽³⁾ has mobilized vegetable oil in the Community;

Whereas a check has shown that an error appears in the quantity of lot B and Annex II to this Regulation;

whereas the Regulation in question should accordingly be corrected,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 2151/95 is amended as follows:

1. in Annex I, lot B, part 8 is replaced by:
 '8. Total quantity: 725 tonnes net'
2. Annex II is hereby replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 215, 9. 9. 1995, p. 10.

ANNEX

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II — LIITE II — BILAGA II

Lote	Cantidad total (en toneladas)	Cantidades parciales (en toneladas)	Acción n°	País de destino	Lengua que se debe utilizar en la rotulación
Parti	Totalmængde (tons)	Delmængde (tons)	Aktion nr.	Bestemmelsesland	Mærkning på følgende sprog
Partie	Gesamtmenge (in Tonnen)	Teilmengen (in Tonnen)	Maßnahme Nr.	Bestimmungsland	Kennzeichnung in folgender Sprache
Παρτίδα	Συνολική ποσότητα (σε τόνους)	Μερικές ποσότητες (σε τόνους)	Δράση αριθ.	Χώρα προορισμού	Γλώσσα που πρέπει να χρησιμοποιηθεί για τη σήμανση
Lot	Total quantity (in tonnes)	Partial quantities (in tonnes)	Operation No	Country of destination	Language to be used for the marking
Lot	Quantité totale (en tonnes)	Quantités partielles (en tonnes)	Action n°	Pays de destination	Langue à utiliser pour le marquage
Lotto	Quantità totale (in tonnellate)	Quantitativi parziali (in tonnellate)	Azione n.	Paese di destinazione	Lingua da utilizzare per la marcatura
Partij	Totale hoeveelheid (in ton)	Deelhoeveelheden (in ton)	Maatregel nr.	Land van bestemming	Taal te gebruiken voor de opschriften
Lote	Quantidade total (em toneladas)	Quantidades parciais (em toneladas)	Ação n°	País de destino	Língua a utilizar na rotulagem
Erä	Kokonaismäärä (tonnia)	Osittaismäärä (tonnia)	Toimi N:o	Määrämaa	Merkinnässä käytettävä kieli
Parti	Total kvantitet (ton)	Delkvantitet (ton)	Aktion nr	Bestämmelsesland	Märkning på följande språk
A	360	A1 : 30 A2 : 150 A3 : 180	1681/94 1682/94 1683/94	Togo Perú Madagascar	Français Español Français
B	725	B1 : 90 B2 : 135 B3 : 500	1685/94 1686/94 169/95	Egypt Eritrea Eritrea	English English English'

COMMISSION REGULATION (EC) No 2202/95

of 18 September 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 1740/95⁽²⁾, and in particular Article 4 (1) thereof,

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission 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 19 September 1995.

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 10.

⁽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 18 September 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	44,7		412	132,4
	060	80,2		512	186,0
	064	59,6		600	64,5
	066	41,7		624	123,2
	068	62,3		999	104,7
	204	50,9	0808 10 92, 0808 10 94, 0808 10 98	039	79,3
	212	117,9		064	77,0
	624	75,0		388	62,0
	999	66,5		400	67,0
ex 0707 00 25	052	70,1		508	68,4
	053	166,9		512	68,7
	060	61,0		524	57,4
	066	53,8		528	48,0
	068	60,4		800	62,7
	204	49,1		804	49,8
	624	207,3		999	64,0
	999	95,5	0808 20 57	052	67,6
0709 90 79	052	55,6		388	79,6
	204	77,5		512	89,7
	624	196,3		528	84,1
	999	109,8		800	55,8
0805 30 30	052	80,0	0809 30 41, 0809 30 49	804	112,9
	388	64,0		999	81,6
	512	65,9		052	56,5
	520	66,5		220	121,8
	524	65,2		624	106,8
	528	63,7	0809 40 30	999	95,0
	600	54,7		052	73,4
	624	78,0		064	50,7
0806 10 40	999	67,3		066	63,8
	052	88,6		068	61,2
	064	50,6		624	97,3
	066	49,4		676	68,6
	220	110,8		999	69,2
	400	136,8			

⁽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 2203/95

of 18 September 1995

opening an individual sale by invitation to tender for the export of vinous alcohol

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⁾,

Having regard to Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ⁽³⁾,

Whereas Commission Regulation (EEC) No 377/93 ⁽⁴⁾, as last amended by Regulation (EC) No 3152/94 ⁽⁵⁾, lays down detailed rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies;

Whereas an individual invitation to tender should be held for the export of vinous alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Greek intervention agency; whereas for logistical reasons a lot of 75 000 hectolitres of alcohol should be constituted, comprising all the alcohol in question stored in Greece, and the balance being made up of vinous alcohol stored in Italy;

Whereas exportation of that alcohol to certain countries of the Caribbean and central America for ultimate use as motor fuel is the most appropriate method of disposal and will help to ensure that the alcohol market is not disturbed;

Whereas the Greek intervention agency also holds a quantity of 1 248 hectolitres of vinous alcohol under national administration;

Whereas the amount of the performance guarantee must take account of the fact that large quantities of alcohol may be stored in the countries of the Caribbean and central America concerned and ensure that the alcohol is actually used for the intended purpose;

Whereas Commission Regulation (EEC) No 2192/93 ⁽⁶⁾ concerning the operative events for the agricultural conversion rates used in the wine sector and amending Regulation (EEC) No 377/93 specifies the agricultural conversion rates to be used to convert the payments and securities provided for in connection with individual invitations to tender into national currency;

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

HAS ADOPTED THIS REGULATION:

Article 1

An individual sale by invitation to tender No 183/95 EC shall be held for a total quantity of 75 000 hectolitres of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Greek and Italian intervention agencies.

Article 2

The alcohol offered for sale:

- shall be for export outside the European Community,
- must be imported into and dehydrated in one of the following third countries:
 - Costa Rica,
 - Guatemala,
 - Honduras, including the Swan Islands,
 - El Salvador,
 - Saint Christopher and Nevis,
 - Bahamas,
 - Dominican Republic,
 - Antigua and Barbuda,
 - Dominica,
 - British Virgin Islands and Montserrat,
 - Jamaica,
 - Saint Lucia,
 - Saint Vincent, including the Northern Grenadines,
 - Barbados,
 - Trinidad and Tobago,
 - Belize,
 - Grenada, including the Southern Grenadines,

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 31.

⁽³⁾ OJ No L 346, 15. 12. 1988, p. 7.

⁽⁴⁾ OJ No L 43, 20. 2. 1993, p. 6.

⁽⁵⁾ OJ No L 332, 22. 12. 1994, p. 34.

⁽⁶⁾ OJ No L 196, 5. 8. 1993, p. 19.

- Aruba,
 - Netherlands Antilles (Curaçao, Bonaire, Saint Eustace, Saba and the southern part of Saint Martin),
 - Guyana,
 - Virgin Islands of the United States,
 - Haiti,
- must be used only as motor fuel.

Article 3

The location and reference numbers of the vats concerned, the quantity of alcohol contained in each vat, the alcoholic strength and the characteristics of the alcohol as well as certain specific conditions are given in the Annex I hereto.

Article 4

The sale shall take place in accordance with Articles 13 to 18 and Articles 30 to 38 of Regulation (EEC) No 377/93.

Article 5

1. The tendering security referred to in Article 15 of Regulation (EEC) No 377/93 shall be ECU 3,622 per hectolitre of alcohol at 100 % volume and shall be lodged for the total quantity of alcohol offered for sale in the invitation to tender referred to in Article 1.

Maintenance of the tender after the time limit for submitting tenders and the lodging of a performance guarantee shall constitute the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 ⁽¹⁾ as regards the tendering security.

The tendering security shall be released immediately if the tender is not accepted or if the successful tenderer meets the conditions set out in the preceding subparagraph.

2. The performance guarantee shall be ECU 30,19 per hectolitre of alcohol at 100 % volume.

The guarantee shall be released in accordance with Article 34 (3) (b) of Regulation (EEC) No 377/93.

Article 6

1. The alcohol awarded under the invitation to tender referred to in Article 1 shall be exported by 31 March 1996 at the latest.

2. The awarded alcohol shall be used within three years from the date of first removal.

Article 7

To be valid, tenders must indicate the place where end use of the alcohol awarded is to take place and must include an undertaking by the tenderer to the effect that the alcohol will be sent to that destination and used for that purpose. The tender shall also include proof that the tenderer has binding commitments with an operator in the motor fuel sector in one of the third countries listed in Article 2 who has undertaken to dehydrate the alcohol awarded in one of those countries and to export it for use solely as motor fuel.

Article 8

1. Before the awarded alcohol is removed, the intervention agency and the successful tenderer shall take a reference sample and shall analyse that sample to verify the alcoholic strength expressed in % vol of the alcohol in question.

Where the final results of the analysis of the sample show a difference between the alcoholic strength by volume of the alcohol to be removed and the minimum alcoholic strength by volume stated in the notice of invitation to tender, the following provisions shall apply:

- (i) the intervention agency shall, the same day, inform the Commission thereof in accordance with Annex II, as well as the storer and the successful tenderer;
- (ii) the successful tenderer may:
 - either agree to take the lot with its characteristics as established, subject to the Commission's agreement,
 - or refuse to take over the lot in question.

In either case, the successful tenderer shall, the same day, inform the intervention agency and the Commission thereof in accordance with Annex III.

Once these formalities have been completed, if he has refused to take over the lot concerned, he shall be immediately released from all his obligations relating to that lot.

2. Where the successful tenderer refuses the merchandise, as provided for in paragraph 1, the intervention agency shall supply him with another quantity of alcohol of the requisite quality, at no extra charge, within a maximum of eight days.

3. If physical removal of the alcohol is delayed by more than five working days in relation to the date of acceptance of the lot to be removed by the successful tenderer for reasons attributable to the intervention agency, the Member State shall be responsible for the payment of compensation.

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

Article 9

Notwithstanding the first subparagraph of Article 36 (2) of Regulation (EEC) No 377/93, the alcohol contained in the vats indicated in the communication from the Member States referred to in Article 36 of Regulation (EEC) No 377/93 and covered by the invitation to tender referred to in Article 1 of this Regulation may be substituted by alcohol of the same type by the intervention agencies holding the alcohol concerned in agreement with the Commission, or mixed with other alcohol deli-

vered to the intervention agency until a removal order is issued for that alcohol, in particular for logistical reasons.

Article 10

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

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 183/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
1. GREECE	Anthia (Patra)	A4	978	35 + 36 + 39	Raw alcohol
		A5	970	39	Raw alcohol
		A6	718	39	Raw alcohol
		A7	719	39	Raw alcohol
		A12	901	39	Raw alcohol
		A1	967	39	Raw alcohol
		A2	971	39	Raw alcohol
		A3	957	39	Raw alcohol
	Volos	22	701	39	Neutral
		23	703	39	Neutral
		28	249	39	Neutral
		37	807	39	Neutral
	Sitia (Kriti)	47	926	39	Raw alcohol
		46	941	39	Raw alcohol
		30	562	36 + 39	Neutral
		32	558	39	Raw alcohol
		43	928	39	Raw alcohol
		33	471	39	Neutral
		38	569	39	Neutral
	Halkida	14	604	39	Raw alcohol
		5	193	35 + 39	Raw alcohol
	Halkida	3	358	35	Raw alcohol
		6	357	35	Raw alcohol
		7	357	35	Raw alcohol
		8	345	35	Raw alcohol
		15	500	35	Raw alcohol
		10	336	35	Raw alcohol
		9	244	35	Raw alcohol
		2	357	35	Raw alcohol
		20	38	35	Raw alcohol
	Megara	35	678	35	Raw alcohol
		32	752	35	Raw alcohol
	Total		19 715		

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
2. ITALY	Ind. Chimica Valenziana SpA		6 417	39	Raw alcohol
	Bertolino SpA		6 911	35	Raw alcohol
	F.lli Balice Snc		6 417	39	Raw alcohol
	Neri Srl		2 962	35	Raw alcohol
	Co.Ri.Me Srl		4 936	39	Raw alcohol
	Lav. Sociale Vinacce Modena SpA		2 962	35	Raw alcohol
	G. Di Lorenzo SpA		8 885	35	Raw alcohol
	CAVIRO Srl		11 847	39	Raw alcohol
	Dist. del Sud SpA		1 974	39	Raw alcohol
	Vinum SpA		1 974	35	Raw alcohol
	Total		55 285		
	Grand total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in Italian lire or Greek drachmas, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must :

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or #CQ50# Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agencies :
- EIMA, via Palestro 81, I-00185 Roma (tel. 47 49 91 ; telex 62 03 31, 62 02 52, 61 30 03 ; fax 445 39 40, 495 39 40),
- Ministry of Agriculture — DIDAGEP, 241, Acharnon Street, Athens (tel. : 86 77 618, telex : 22 17 01, fax : 86 71 111).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned within twenty days of the date of receipt of the Commission decision awarding the alcohol contract.

ANNEX II

The only telex and fax numbers in Brussels to be used are :

DG VI (E-2) (for the attention of Mr Chiappone/Mr Van der Stappen)

- telex : 22037 AGREC B,
 22070 AGREC B (Greek characters),
— fax : (32 2) 295 92 52.

ANNEX III

Communication of refusal or acceptance of lots under the individual invitation to tender for the export of vinous alcohol opened by Regulation (EC) No 2203/95

- Name of the successful tenderer :
— Date of award of contract :
— Date of refusal or acceptance of the lot by the successful tenderer :

Lot No	Quantity in hectolitres	Location of alcohol	Reason for refusal or acceptance to take over

COMMISSION REGULATION (EC) No 2204/95

of 18 September 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 2193/95⁽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 19 September 1995.

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

Done at Brussels, 18 September 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 220, 16. 9. 1995, p. 12.

ANNEX

to the Commission Regulation of 18 September 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⁾	22,80	4,90
1701 11 90 ⁽¹⁾	22,80	10,13
1701 12 10 ⁽¹⁾	22,80	4,71
1701 12 90 ⁽¹⁾	22,80	9,70
1701 91 00 ⁽²⁾	26,73	11,87
1701 99 10 ⁽²⁾	26,73	7,35
1701 99 90 ⁽²⁾	26,73	7,35
1702 90 99 ⁽³⁾	0,27	0,38

⁽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 2205/95
of 18 September 1995
setting the world market price for unginned cotton

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 general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81⁽²⁾, and in particular Articles 3 and 4 thereof,

Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be determined periodically from the world market price recorded for ginned cotton, using the historical relationship between the ginned cotton and that calculated for unginned cotton; whereas this historical relationship was specified in Article 1 (2) 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 (EC) No 2064/95⁽⁴⁾; whereas in cases where the world market price cannot be thus determined it is to be based on the last price determined;

Whereas pursuant to Article 4 of Regulation (EC) No 1554/95 the world market price for ginned cotton is determined for a product meeting certain characteristics

and by using the most favourable offers and quotations of those considered representative of the real market trend; whereas for this purpose an average is to be established of the offers and quotations on one or more European exchanges for deliveries cif to north European ports of cotton from the various supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for ginned cotton provide for adjustment to reflect differences in product quality and the nature of offers and quotations; whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Whereas application of the above rules gives the world market price for unginned cotton specified hereunder,

HAS ADOPTED THIS REGULATION:

Article 1

The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at ECU 40,032 per 100 kilograms.

Article 2

This Regulation shall enter into force on 19 September 1995.

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽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 204, 30. 8. 1995, p. 8.

COMMISSION REGULATION (EC) No 2206/95

of 18 September 1995

concerning applications for export licences for products falling within CN code
1001 90 99 with advance fixing of the refund

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 1863/95⁽²⁾,

Whereas Article 7 (4) of Commission Regulation (EC) No 1162/95⁽³⁾, as last amended by Regulation (EC) No 2147/95⁽⁴⁾, provides where this paragraph is specifically referred to when an export refund is fixed, for an interval of three working days between the day of submission of applications and the granting of export licences with advance fixing of the refund and provides that the Commission is to fix a uniform percentage reduction in the quantities if applications for export licences exceed the quantities which may be exported; whereas applications for licences submitted on 15 September 1995 relate to 720 000 tonnes of common wheat and the maximum quantity which may be exported is 250 000 tonnes for Algeria, Morocco and Tunisia; whereas licence applications submitted on the same date for 54 000 tonnes of common wheat and the maximum quantity which may be exported is 50 000 tonnes to Senegal, Côte d'Ivoire, Gabon, Cameroon and Burkina Faso; whereas the

percentage for the reduction in the export licence applications submitted on 15 September 1995 should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences for Algeria, Morocco and Tunisia with advanced fixing of the refund conveyed to the Commission before 16 September 1995 for common wheat falling within CN code 1001 90 99 submitted on 15 September 1995, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,35. Requests that are not conveyed to the Commission before 16 September 1995 shall be refused.

Article 2

Applications for export licences for Senegal, Côte d'Ivoire, Gabon, Cameroon and Burkina Faso with advanced fixing of the refund conveyed to the Commission before 16 September 1995 for common wheat falling within CN code 1001 90 99 submitted on 15 September 1995, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,93. Requests that are not conveyed to the Commission before 16 September 1995 shall be refused.

Article 3

This Regulation shall enter into force on 19 September 1995.

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 117, 24. 5. 1995, p. 2.

⁽⁴⁾ OJ No L 215, 9. 9. 1995, p. 4.

COMMISSION REGULATION (EC) No 2207/95
of 18 September 1995
suspending the advance fixing of export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 424/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of applications for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 ⁽³⁾, and in particular Article 10 thereof,

Whereas the quantity covered by applications for advance fixing of refunds on beef and veal is greater than that normally disposed of;

Whereas applications for advance fixing of refunds should accordingly no longer be accepted and no licences should

be issued, for certain products, in respect of applications pending,

HAS ADOPTED THIS REGULATION :

Article 1

1. The lodging of applications for export licences with advance fixing of the refund for the products referred to in Article 1 of Commission Regulation (EC) No 2130/95 ⁽⁴⁾ is hereby suspended on 19 September 1995.

2. No further action shall be taken in respect of applications pending for licences with advance fixing of the refund for products falling within CN codes 0201 and 0202 which should have been issued from 19 September 1995.

Article 2

This Regulation shall enter into force on 19 September 1995.

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

Done at Brussels, 18 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 45, 1. 3. 1995, p. 2.

⁽³⁾ OJ No L 143, 27. 6. 1995, p. 35.

⁽⁴⁾ OJ No L 214, 8. 9. 1995, p. 1.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 January 1995

relating to a proceeding under Articles 85 and 86 of the EC Treaty

(IV/33.375 — PMI-DSV)

(Only the German and French texts are authentic)

(95/373/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 2 and 6 thereof,

Having regard to the complaint lodged on 24 November 1989 concerning an alleged infringement of Articles 85 and 86 of the EC Treaty by Ladbroke Deutschland GmbH against

- Deutscher Sportverlag Kurt Stoof GmbH & Co, Cologne (Germany),
- Groupement d'intérêt économique (GIE) Pari Mutuel Urbain, Paris (France), and the nine French racing associations of which it is composed,
- Pari Mutuel International SA, Paris (France),

Having regard to the notification and application for negative clearance submitted to the Commission on 15 February 1991 by Pari Mutuel International SA concerning the PMI-DSV agreement of 4 December 1990,

Having regard to the summary of the notification published⁽²⁾ pursuant to Article 19 (3) of Regulation No 17,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

A. The undertakings concerned

- (1) (a) Pari Mutuel International SA ('PMI'), Paris, France, is a subsidiary of Groupement d'intérêt économique (GIE) Pari Mutuel Urbain ('PMU'), three banks, and the nine racing associations which are members of PMU. Its purpose is to develop the exploitation of television pictures and news of French races outside France.
- (b) PMU, Paris, France, was set up by the French racing associations authorized to take off-course bets. Under French law, all associations organizing races are authorized to organize totalizator betting at their racecourses. Nine of them are also authorized to take off-course bets (in their

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 246, 24. 9. 1992, p. 3.

own agencies, and in cafés, tobacconists' shops, etc.). These nine associations (four in the Paris area, five in the provinces) entrusted PMU with the task of drawing up the programme of meetings, totalizing bets and calculating winnings.

The organizing associations retain the intellectual property rights to the races; they film, produce and commentate them themselves.

- (c) Deutscher Sportverlag Kurt Stoof GmbH & Co ("DSV"), Cologne, Germany, is a German sports publisher, one of whose publications is a racing paper that covers French races. DSV also participates in relaying television pictures and news of horse races.

B. The complaint

- (2) On 24 November 1989, Ladbroke Racing (Deutschland) GmbH, Cologne ("Ladbroke Deutschland"), the German subsidiary of Ladbroke Racing Ltd, the largest United Kingdom turf accountants, lodged a complaint with the Commission against PMI and DSV concerning an alleged infringement of Articles 85 and/or 86 of the EC Treaty.

According to Ladbroke, those two Articles were infringed by the clauses of the agreement between PMI and DSV which prevented DSV from sub-licensing the use of sound and pictures relating to French horse-races to turf accountants that were corporate bodies or which did not exist at the date when the agreement was concluded.

It asked the Commission to require, through a Decision pursuant to Article 3 (1) of Regulation No 17 in the same terms as in Commission Decision 89/205/EEC, (*Magill*)⁽¹⁾, either PMI directly or DSV, on the instructions of PMI, to place at its disposal, on a non-discriminatory basis, the same televised colour pictures and commentaries as was supplied to all other German bookmakers.

Ladbroke also asked the Commission to undertake investigations pursuant to Articles 11 and 14 of Regulation No 17 in order to verify all the terms of the agreement between PMI and DSV for the purposes of establishing whether it contained any other conditions which restricted competition and

of ensuring that any copyright which might exist was exploited on a non-discriminatory basis.

C. The market

- (3) (a) In the Commission's view, this case involves neither the betting market proper nor the market in televised pictures and news of horse races as such.
- (b) The betting market proper takes two distinct forms:

1. Non-pool betting, in which the bettor bets on the winning horse against a bookmaker on the basis of odds ('5 to 1', '10 to 1', etc.) agreed between the bettor and the bookmaker or of conventional odds to which the parties refer, e.g. the starting odds at the racecourse, or the dividends of national or foreign totalizator betting published in the specialized press.

This type of betting is practised in the United Kingdom (96 % of the market), Germany (19 %), Belgium (68,5 %) and several other countries. It is prohibited in France.

2. Totalizator betting, in which the stakes are combined into a pool of which 70 % is paid back to the bettors who have correctly predicted the winning horse or the finishing order of a group of horses (first two, first three, first four, first five, etc.), with 15 % to the State by way of tax and 15 % to the organizer⁽²⁾.

This type of betting, which is generally organized by national racing associations, is practised in France (100 % of the market), Germany (8 %), Belgium (31,5 %), the United Kingdom (4 %) and other countries.

It emerges from the Commission's investigation that the betting market can function perfectly well without the television pictures and news produced by the racing associations being relayed by satellite to betting shops. However, where this option is available on the market, it may have a marked effect on competition.

⁽¹⁾ OJ No L 78, 21. 3. 1989, p. 43.

⁽²⁾ These percentages correspond to the deductions applied in France. In Belgium, the deduction made for tax is only half as much.

- (c) The market in relaying televised pictures and news of horse races (in the Commission's view, the relaying of greyhound races or other sports events are separate markets) is shared between the UK company SIS (Satellite Information Services Ltd), the shareholders of which are the three main UK bookmakers (including the complainant), which relays the pictures and news of British races, and the French company FCR (Société France Câbles et Radio), which relays those of French races on PMI's behalf. Only a sound broadcast is relayed of German races. Belgian races are not relayed at all.

In the United Kingdom, SIS is the only supplier of televised pictures and news of horse races. The same applies to FCR in France. In Belgium, where FCR's broadcasts are not received, 5 % of bookmakers receive SIS broadcasts. Of bookmakers in Germany, which take 19 % of total bets in that country, 79 % receive SIS broadcasts, 86 % receive FCR broadcasts and 65 % receive both.

This market in relaying televised pictures and news of horse races is at present characterized by the fact that the pictures and news in question are essentially intended for transmission to betting shops for the purposes of supplying their customers with information which facilitates their choice and, in so doing, of inducing them to bet more. Consequently, this market is closely linked to the type of betting (odds-type betting or totalizator betting) or the origin of the race pictures (United Kingdom, France) on which basis bets are taken in betting shops which receive these pictures and news.

- (d) The Commission therefore considers that the market in question, i.e. that of the relaying of television pictures and news of horse races for the customers of betting shops, is ancillary to the betting market.
- (e) As regards the geographical scope of this type of market, it takes the view that, for reasons of legislation, and owing to the habits of bettors, especially in their choice as between odds-type and totalizator betting (see (b) above) and between betting on national and on foreign races⁽¹⁾, and also because it is a characteristic of the main market — the market in betting —

that it calls for a close relationship between bettors and bet-takers, the ancillary market in pictures and news transmitted by satellite is subject to the same territorial limitation, with the result that every national market has to be regarded as a separate market.

D. Contracts preceding the notified contract

- (4) Following the lodging of Ladbroke Deutschland's complaint, the Commission asked the firms concerned to inform it of the agreements under which pictures and sound of French races were relayed live by satellite to German betting shops.

The Commission concluded from the replies sent by the firms concerned that :

1. the French racing associations (of which there were still ten at that time) had, by contract dated 9 January 1990 with retroactive effect from 1 August 1989, granted PMU the right to market in France and abroad, in the latter case through PMI and subject to their prior consent to each such operation, the television pictures and news (that is to say, pictures and sound, winning dividends, commentaries, programmes and forecasts) of the races organized by them, so as to promote off-course betting on those races ;
2. by contract dated 12 January 1990, PMU transferred to PMI the operating rights in pictures and commentaries that it had been granted by the racing associations for the races organized by them, for the Federal Republic of Germany as then constituted, West Berlin and Austria ;
3. by contract dated 25 August 1989 between PMI and DSV, it was agreed that the pictures and news of the French races already transmitted by FCR to PMU agencies in France under a contract between PMU and the French racing associations would also be relayed live to betting shops run by the turf accountants appointed by DSV in the Federal Republic of Germany as then constituted, West Berlin and Austria.

⁽¹⁾ In France and the United Kingdom, all betting is on national races, in Germany, 88,6 % is on national races and 11,4 % on French and British races, while in Belgium, 31,5 % is on national races, 63 % on French races and less than 5 % on British races.

- (5) In the Commission's view, this latter contract contained two restrictions of competition likely to affect trade between Member States :

1. a clause (paragraph 4) by which the right to receive relayed pictures and news of horse races was limited to natural persons. Corporate turf accountants such as Ladbroke Deutschland could receive the transmissions only if the parties came to a separate agreement;
 2. a clause (paragraph 5) by which DSV could transmit pictures and news only to betting shops already in existence when the contract was signed. However, this restriction did not apply to new concessions granted by virtue of the principles defined in paragraph 4 of the contract.
- (6) The Commission sent statements of objections to PMU and PMI on 21 December 1990, and to DSV on 18 January 1991, announcing its intention of finding that the conditions for the application of Article 85 (1) of the EC Treaty were met as regards the two clauses summarized above, and that there were no grounds for applying Article 85 (3), and consequently of ordering that the infringements be brought to an end immediately.

PMI replied on 15 February 1991 to this statement of objections, PMU on 20 February and DSV on 27 March. All three asked to be heard by the Commission, and a hearing was held on 17 April.

Meanwhile, on 15 February, PMI and DSV notified the Commission of a new contract replacing that of 25 August 1989.

E. The notified contract

- (7) This contract, signed on 4 December 1990, with retroactive effect from 1 July, was notified on 15 February 1991 with an application for negative clearance or, if the Commission was not prepared to grant such clearance, exemption under Article 85 (3).
- (a) Under this contract, PMI granted DSV an exclusive operating licence in the Federal Republic of Germany as constituted before unification, West Berlin and Austria for pictures, commentaries and other relevant information; the ownership rights, which belong to the associations or to PMU, are described in the preamble to the contract.
 - (b) Consequently PMI undertook to supply to DSV's subcontractors (the bookmakers) the equipment for decoding the coded satellite

signal needed to receive the television pictures and news in their betting shops.

- (c) The contract also included a number of provisions that DSV undertook to impose on the subcontractors through a standard subcontract approved by PMI, which would check compliance in each case. Among the provisions were three that the Commission considered incompatible with Article 85 of the Treaty. After the Commission had sent a statement of objections on 22 January 1992, those provisions were amended to ensure compliance with Article 85 of the Treaty.

The provisions in question were the following:

1. A requirement for honesty on the part of the subcontractor: the Commission found this clause insufficiently precise, and lacking in objective criteria to determine the choice of subcontractors (they should not have been penalized by any legal or administrative authority or have been involved in any country whatsoever in proceedings relating to infringements of the laws on betting and gaming). The new wording of the clause limits its scope to a prohibition on subcontractors who have been found guilty of infringements in the territories governed by the contract.
2. A clause requiring subcontractors to recognize in all countries the ownership rights of the racing associations and PMU as described in the preamble. The Commission pointed out to the parties that this clause might mean that a subcontractor's contract could be cancelled if he did not recognize the existence in all Member States of rights that were included among the general 'ownership rights' referred to by the racing associations and that it prevented him from invoking before the courts, where appropriate, the absence of any legal protection of those rights. The amended version of the clause no longer requires subcontractors to recognize these ownership rights.
3. A clause on corporate subcontractors:
 - requiring them to notify DSV, which would pass on the information to PMI, of all relevant information about the company (balance sheet, distribution of shareholders, holdings, etc.)

- in the case of companies belonging to a group, requiring the parent company to undertake, for and on behalf of the member companies, that all the clauses in the contract signed by DSV and the subsidiary would be complied with and enforced,
- requiring the parent company and all the subsidiaries of a group to satisfy the conditions of honesty set out in the preceding articles of the contract.

The Commission pointed out to the parties that this clause would require corporate subcontractors to divulge highly confidential information, which amounted to serious discrimination that could not be objectively justified by specific reasons showing it to be essential to the application of the contract. Nor was it justified by any greater risk of default on the part of corporate subcontractors. As a result of the Commission's remarks, the requirement in the first indent of the clause was limited to documents subject to compulsory publication in the territories covered by the contract; the requirement in the second indent was replaced by a provision merely requiring the subcontractor to promise that it would not use its links with other companies to evade its commitments; and the requirement in the third indent was deleted.

- (d) The contract provides that the sub-licensee will refrain from transmitting or relaying television pictures and information either to another place or to another agency or to a third party not authorized by DSV.
- (e) The contract prohibits DSV from concluding contracts with subcontractors who do not agree to refrain from carrying out, in the agency receiving the pictures and sound, any other activity relating directly or indirectly to games of chance, unless otherwise provided for by the laws in force.
- (f) The contract requires DSV to ensure that, at all times, at least 40 betting shops are equipped with decoders.

- (g) It lays down arrangements for the remuneration of PMI.
- (h) It gives the racing associations and PMI the opportunity to place bets on German races, either direct or in association with third parties (such as the German Lotto companies).
- (i) The contract has a duration of five years; an extension may be negotiated between the parties.

- (8) A summary of the notified agreement, as amended following the statement of objections sent on 22 January 1992, was published pursuant to Article 19 (3) of Regulation No 17.

The Commission announced that it proposed to adopt a favourable attitude towards the notified agreement and invited interested third parties to send their comments before it did so. It received three letters in reply to the notice.

- (9) The letters, all dated 22 October 1992, were from :
 - Ladbroke Deutschland,
 - SIS the firm which relays by satellite pictures and sound of British horse races to German bookmakers,
 - Betting Office Licensees Association Ltd (BOLA), the association of British off-course turf accountants.

The three undertakings/association of undertakings object to :

1. the fact that the notified contract is limited, as regards Germany, to the territories of the Federal Republic of Germany as constituted before unification and West Berlin, which they regard as an inadmissible partitioning of the territory of the present Federal Republic of Germany,
2. the provision in the contract prohibiting DSV from relaying the pictures and sound it receives from PMI to agencies outside the licensed territory,
3. the fact that the racing associations, PMU and PMI hold the intellectual property rights in the racing results and announcements of winning dividends.

II. LEGAL ASSESSMENT

- (10) Following the amendements made to the contract by PMI and DSV at the Commission's request, none of the clauses of the contract is now caught by Article 85.
- (11) The provision limiting the exclusive operating licence granted to DSV to the Federal Republic of Germany as constituted before unification, West Berlin and Austria (see paragraph 7 (a) above) is not caught by Article 85 either. The holders of the copyright to the pictures and commentaries of French races, namely the racing associations, were entitled, in granting PMU the right to use such pictures and commentaries, to require it to seek their approval whenever PMI wished to exercise those rights abroad.
- (12) The same is true of the provision requiring DSV subcontractors to refrain from transmitting or relaying television pictures and news received from FCR to another place, either on behalf of another betting shop or on behalf of a third party not authorized by DSV (see paragraph (7) (d) above). Such clauses form part of the rights granted to copyright holders under present Community rules.

Such a clause could not be caught by Article 85, since the licensor remains free, under such Community rules, to choose his licensee and the size of the territory which he grants him. If such a clause were not included, the licence would become a European licence under which the licensor would no longer be free, in particular, to choose his sub-licensee for the other Member States for business or financial reasons or on the grounds of honesty. The omission of such a clause might also deprive the licensor of the right to check the subcontractor's technical capacities, such as his capacity to relay properly the sound and pictures sent to him, bearing in mind in particular the fact that the authorization conferred on FCR for the relay of such sound and pictures stops at the boundaries of the territory granted under the agreement of 4 December 1990. If such a clause were not included, therefore, the licensor would be unable to coordinate the management of all the relays of sound and pictures to the other Member States.

- (13) As regards the provision prohibiting subcontractors from pursuing in the betting shop receiving the

pictures and sound, any other activity directly or indirectly related to games of chance unless otherwise provided for by the laws in force (see paragraph (7) (e) above), it amounts to allowing only lawful acts. The fact that it does not prohibit lawful actions means that it is not liable to restrict competition within the meaning of Article 85 (1).

- (14) Turning lastly to whether racing associations hold intellectual property rights in racing results and tote dividends, the Commission notes that the question may in future be submitted by sub-contractors for appraisal by the national courts. In its revised version, the contract no longer includes any obligation on the part of sub-contractors to acknowledge such rights. Since those sub-contractors are now free to refer the matter to the courts, the contract no longer contains, in this regard, any elements restricting competition within the meaning of Article 85 (1).
- (15) Since the PMI-DSV contract and the subcontract offered by the latter to German bookmakers no longer contain any clauses caught by Article 85, the complaint lodged by Ladbroke on 24 November 1989 pursuant to Articles 85 and 86 of the Treaty is now inapplicable.

In particular, following the delegation of the clauses contrary to Article 85, DSV is now free to grant sub-licenses to any bookmaker established in the territory covered by the licence, irrespective, of the bookmaker's legal status.

Consequently, there is no longer any basis for the view that the contract between PMI and DSV is caught by Article 85 or 86,

HAS ADOPTED THIS DECISION :

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Articles 85 and 86 of the EC Treaty in respect of the agreement concluded between Pari Mutuel International SA and Deutscher Sportverlag Kurt Stoof GmbH & Co on 4 December 1990.

Article 2

This Decision is addressed to :

- Pari Mutuel International SA,
Paris,
France ;
- Deutscher Sportverlag Kurt Stoof GmbH & Co,
Cologne,
Germany.

Done at Brussels, 31 January 1995.

For the Commission

Karel VAN MIERT

Member of the Commission
