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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2598/95

of 30 October 1995

amending Regulation (EEC) No 3763/91 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas, in accordance with Title V of Council Decision 89/687/EEC of 22 December 1989 establishing a programme of options specific to the remote and insular nature of the French overseas departments (Poseidom) ⁽³⁾ and Article 23 of Regulation (EEC) No 3763/91 ⁽⁴⁾, the Commission has produced a progress report for 1992-93 on the measures undertaken to implement the Poseidom programme and the measures laid down in the said Regulation;

Whereas, on the basis of both the assessment in the Commission report, particularly as regards the difficulties observed in 1992 and 1993, and the applications submitted by the French authorities under the current partnership procedure, some adjustments to Regulation (EEC) No 3763/91 are necessary;

Whereas the arrangements should be revised in such a way as to achieve the technical and drafting alignments as a result of the subsequent adoption and implementation of the Poseican programme for the Canary Islands and the Poseima programme for the Azores and Madeira;

Whereas, in the case of the specific supply arrangements, the period of applicability of the measures for meeting the needs of the department of French Guiana as regards compound feedingstuffs should, given the delay in imple-

mentation, be extended until the plants manufacturing such products actually commence operations in that department;

Whereas the volume of rice production in French Guiana attracting aid for disposal and marketing in Guadeloupe and Martinique must be increased to take account of profitability requirements; whereas it must also be possible for a limited quantity of that production to be marketed in the rest of the Community;

Whereas the specific supply arrangements must be extended to certain other products to meet the needs of the processing industries located in the French overseas departments, hereinafter referred to as 'FOD', in order to supply local demand;

Whereas, in the case of the measures to encourage livestock production, the period in which the specific supply arrangements relating to bovine animals for fattening and consumption in the FOD application should be extended so as to take account of the delay in their implementation; whereas the goal of increasing the currently very low local self-sufficiency rates in adult bovine animals and suckler cows justifies waiving the provisions of the common organization of the market under Poseidom, particularly the criteria regarding stocking density which were established to restrict intensive livestock rearing in the rest of the Community; whereas, for a transitional period, provision should be made to contribute funds to the regional programmes to support the production and marketing of local products in the livestock and milk products sectors in Martinique and Réunion, which have been drawn up and carried out in close collaboration with the most representative inter-branch organizations currently operating;

Whereas the poor conditions under which the local FOD market is supplied with fresh milk products, most of which are currently imported, should be remedied; whereas this aim can be achieved by replacing the consumption aid scheme, which has proved inadequate,

⁽¹⁾ OJ No C 290, 18. 10. 1994, p. 4.

⁽²⁾ OJ No C 43, 20. 2. 1995, p. 134.

⁽³⁾ OJ No L 399, 30. 12. 1989, p. 39.

⁽⁴⁾ OJ No L 356, 24. 12. 1991, p. 1. Regulation as last amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).

by an aid scheme to develop the production of cow's milk within the limits of local consumption requirements as assessed on a regular basis in a supply balance, and by waiving the additional levy scheme applicable to producers of cow's milk provided for in Regulation (EEC) No 3950/92⁽¹⁾; whereas the adverse supply conditions which characterize those remote regions, differing fundamentally from the conditions in the rest of the Community, together with the need to stimulate the development of local production, justify this exception;

Whereas, as regards the measures to support local production, the aid scheme per hectare for fruit and vegetables has proved unsuitable, especially because of the insufficient amounts granted and the lack of any differentiation of the amounts according to the crops involved; whereas aid for marketing such products for the exclusive supply of the FOD market, granted for quality products covered by medium-term supply contracts concluded with distributors, restaurants and the like and local authorities, the amount of which would be fixed on the basis of the average value of the products involved, appears to be the most suitable approach in the FOD;

Whereas measures must also be taken, within the limit of set quantities, to support certain traditional products such as vanilla, geraniums or vetiver, to develop the processing of certain fruits and vegetables from products harvested locally and to stimulate the marketing of those products using existing mechanisms,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3763/91 is hereby amended as follows:

1. The heading of Title I shall be replaced by the following:

'Measures to promote supplies to the FOD, to encourage livestock farming there and to develop rice cultivation in French Guiana'.

2. Article 2 shall be amended as follows:

- (a) Paragraph 1 shall be replaced by the following:

'1. Each year, a forecast supply balance shall be established for the agricultural products necessary

for human consumption and processing referred to in this Article and in the Annex. This balance may be revised during the year on the basis of trends in the FOD's requirements.'

- (b) Paragraphs 3, 4, 5 and 6 shall be replaced by the following:

'3. Without prejudice to the application of paragraph 2 and Article 3 (1) to cereal products, duties shall not apply to imports into the FOD of the products listed in the Annex which are covered by the specific supply arrangements, if they originate in developing countries, within the limit of the quantities determined in the supply balance referred to in paragraph 1.

In the event of exceptional supply difficulties, however, exemption from duty may be extended to products originating in other third countries.

4. To ensure coverage of the requirements established in accordance with paragraph 1 in terms of quantity, price and quality, supplies to the FOD shall also be effected by mobilizing Community products held in public intervention storage or available on the Community market, on terms equivalent, for the end user, to the advantage resulting from exemption from import duties on imports of products from third countries.

The terms of supply shall be fixed with reference to the costs of the various sources of supply and the prices applied to exports to third countries.

5. Entitlement under the supply arrangements provided for in this Article and in Article 3 (1) shall be subject to the conditions that the economic advantage derived either from exemption from the import duty or from Community aid in the case of supply from the rest of the Community is actually passed on to the end user.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92⁽¹⁾ or the corresponding Articles of the other Regulation on the common organization of the markets in question. They shall cover in particular:

- the establishment of the balances, and any amendments thereto,
- the amount of aid granted for supply from the rest of the Community,
- the application, where appropriate, of the second subparagraph of paragraphs 2 and 3,

⁽¹⁾ OJ No L 405, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 1883/94 (OJ No L 197, 30. 7. 1994, p. 25).

- the measures to ensure that the advantages are actually passed on to the end user and to ensure, insofar as is necessary, an import licensing system.

(*) OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Regulation (EC) No 1866/94 (OJ No L 197, 30. 7. 1994, p. 1).

3. Article 3 shall be amended as follows :

- (a) The first subparagraph of paragraph 1 shall be replaced by the following :

'As from 1 July 1994 and until such time as the corresponding manufacturing plants in the department of French Guiana actually commence production, the products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 which are used there for animal feed shall be covered by the supply arrangements under the conditions laid down in this paragraph and in Article 2 (1), (3), (4), (5) and (6).'

- (b) In the second subparagraph of paragraph 1, the reference to 'Article 14 (1) of Regulation (EEC) No 2727/75' shall be replaced by a reference to 'Article 11 of Regulation (EEC) No 1766/92'.

- (c) The following fourth subparagraph shall be added to paragraph 1 :

'Verification that the plants mentioned in the first subparagraph have commenced production and abolition of the supply arrangements as provided for in this paragraph shall be effected in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92.'

- (d) Paragraph 3 shall be replaced by the following :

'3. Community aid shall be granted for the conclusion of annual contracts concerning the disposal and marketing in Guadeloupe, Martinique and the rest of the Community of rice harvested in French Guiana, within the limit of an annual volume of 12 000 tonnes of wholly milled rice equivalent. As regards disposal and marketing in the rest of the Community, aid shall be granted for a maximum of 4 000 tonnes.

The contracts shall be concluded between producers in French Guiana and natural or legal persons established in Guadeloupe, Martinique or the rest of the Community.

The amount of the aid shall be 10 % of the value of the marketed produce sold in Guadeloupe, Martinique or the rest of the Community, for merchandise delivered at the first port of unloading. That percentage shall be raised to 13 % if

the contractor for the producers is a producer group or association thereof.

The aid shall be paid to the purchaser who markets the products under the annual contracts.'

- (e) In paragraph 4, the words 'Article 14 (1) of Regulation (EEC) No 2727/75' shall be replaced by the words 'Articles 10 and 11 of Regulation (EEC) No 1766/92'.

- (f) In paragraph 5, the words 'Article 26 of Regulation (EEC) No 2727/75' shall be replaced by the words 'Article 23 of Regulation (EEC) No 1766/92'.

4. Article 5 shall be replaced by the following :

Article 5

1. The supplementary aid provided for in (a) and (b) below shall be granted in support of traditional activities connected with beef and veal production and measures to improve product quality, within the limits of the consumption needs of the FOD as assessed in the context of a periodic supply balance. The balance shall also take account of breeding animals supplied pursuant to Article 4 and animals covered by the supply arrangements provided for in Article 7.

- (a) A supplement to the special premium for fattening male bovine animals provided for in Article 4b of Regulation (EEC) No 805/68 shall be paid to beef and veal producers. The amount of the supplement shall be ECU 48,30 per head.

- (b) A supplement to the premium for maintaining suckler cows provided for in Article 4d of Regulation (EEC) No 805/68 shall be paid to beef and veal producers. The amount of the supplement shall be ECU 48,30 for each suckler cow held by the producer.

2. The provisions relating to :

- (a) the regional ceiling laid down by Article 4b of Regulation (EEC) No 805/68 as regards the basic special premium ;
- (b) the individual ceiling for animals kept on the holding laid down in Article 4d of the aforementioned Regulation, as regards the basic suckler cow premium ;
- (c) the stocking density in the case of animals kept on the farm, laid down in Article 4g of that Regulation, as regards the basic special premium and the basic suckler cow premium,

shall not apply in the FOD in the case of the basic special premium, the basic suckler cow premium or the supplementary premiums referred to in paragraph 1 (a) and (b).

3. The basic and supplementary premiums referred to in paragraphs 1 and 2 shall be granted each year for a maximum of 10 000 male bovine animals and 35 000 suckler cows, respectively.

However, those ceilings and the balance referred to in paragraph 1 may be revised on the basis of trends in requirements, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 or Article 27 of Regulation (EEC) No 805/68.

Further conditions governing the grant of the supplementary premiums may be laid down using the same procedure.

4. The detailed rules to be adopted for implementing this Article:

(a) as regards the special premium for male bovine animals, shall provide for:

- the "freezing", within the regional ceiling set in Article 4b (3) of Regulation (EEC) No 805/68, of the number of animals in respect of which the special premium was granted in the FOD,
- the granting of basic and supplementary premiums within the limit of 90 animals per age group, per calendar year and per holding;

(b) as regards the suckler cow premium, these detailed rules:

- shall include provisions to guarantee, to the extent necessary, the rights of producers to whom a premium has been granted under Article 4d (2) of Regulation (EEC) No 805/68,
- may provide for the establishment of a specific reserve for the FOD and special conditions for allocating or reallocating rights, taking into account the objectives pursued in the livestock farming sector; the size of the reserve shall be determined on the basis of the ceiling set in paragraph 3 and the number of premiums granted for the year 1994.

The detailed implementing rules may include additional conditions for granting further premiums.

5. Before the end of the third year of actual application of this Article, the Commission shall submit an assessment of the implementation of the specific provisions relating to livestock farming.'

5. Article 6 shall be replaced by the following:

'Article 6

1. Aid shall be granted to increase the production of cow's milk, within the limits of local FOD human consumption of milk products determined in the

context of a periodic annual balance. The quantities of milk used for the manufacture of skimmed milk intended for animal feed shall not be eligible for aid.

The aid shall be granted to producers and producer groups for the quantities delivered to dairies. It shall be paid through the dairies.

The aid shall be ECU 8,45 per hundred kilograms of whole milk.

The balance may be revised during the year on the basis of trends in requirements, in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68.

Aid shall be paid each year within the limits of a maximum quantity of 20 000 tonnes of milk. That maximum quantity shall be reviewed by the Council, at the end of the third year of application of this measure, on a proposal from the Commission accompanied by an assessment report.

2. The additional levy scheme applicable to producers of cow's milk provided for in Council Regulation (EEC) No 3950/92 (*) shall not apply in the FOD from 1 April 1994.

(*) OJ No L 405, 31. 12. 1992, p. 1.'

6. Article 7 shall be replaced by the following:

'Article 7

During the period 1991/1992 to 1996/1997:

1. the import duties referred to in Article 9 of Regulation (EEC) No 805/68 and applying in the beef and veal sector shall not be applied to imports of bovine animals from third countries entering the FOD for fattening purposes and intended for consumption there;
2. aid shall be granted for the supply in the FOD, on equivalent terms, of animals as referred to in point 1 originating in the rest of the Community.

The number of animals concerned by the measures referred to in the first paragraph shall be based on the supply balance referred to in Article 5 and determined degressively to take account of the development of local production. The number of animals in question and the amount of the aid referred to in point 2 above shall be determined in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.'

7. In Article 8, the following paragraphs shall be added:

'Products mentioned in the first paragraph which are covered by the specific supply arrangements and products processed therefrom shall not be eligible for refunds on exportation from the FOD.'

Detailed rules for the application of this Article shall be adopted as necessary, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 or the corresponding Articles of the Regulations on the common organization of the markets in question.'

8. The following Article shall be added :

'Article 9a

1. In the five-year period 1996 to 2000 aid shall be granted annually to implement in both Martinique and Réunion a comprehensive programme to support the production and marketing of local produce in the livestock and milk products sectors.

The programme may include measures to encourage improved quality and hygiene, the marketing and promotion of quality products, the establishment of intermediate stages, rationalization of production and marketing structures and the provision of technical assistance. The programme may not include the granting of aid in addition to the premiums paid under Articles 5, 6 and 7.

The programme shall be prepared and carried out by the competent authorities designated by the Member State, working in close collaboration with the most representative inter-branch organizations existing on 1 July 1994 in the sectors concerned.

2. The competent authorities shall submit the draft annual programme each year to the Commission before 1 July and for the first year before 15 December 1995. It shall be approved in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.

Six months before the end of the five-year period, the Commission shall send the European Parliament and Council an assessment of the way in which the measure provided for in this Article has been implemented, accompanied by appropriate proposals, where necessary.'

9. Article 13 shall be replaced by the following :

'Article 13

1. Aid shall be granted in respect of the fruits, vegetables, flowers and live plants listed in Chapters 6, 7 and 8 of the combined nomenclature, the peppers and fruits of the genus *Capsicum* and of the genus *Pimenta* falling within CN code 0904 and the spices falling within CN code 0910 intended to supply the FOD market exclusively. The aid shall not be granted for bananas other than plantains falling within CN code 0803 00 11.

The aid shall be granted for products which conform to common standards fixed by Community legislation or which conform to specifications written into the supply contracts.

The grant of the aid shall be subject to the conclusion of supply contracts lasting one or more years between the individual producers or producer groups or associations recognized under Regulations (EEC) No 1035/72 (*) or (EEC) No 1360/78 and distributors, restaurants and the like or local authorities.

The aid shall be paid out within the limits of annual quantities established for each product category.

The amount of the aid shall be fixed on a flat-rate basis for each of the product categories to be determined, based on the average value of the products so covered.

The amount shall be increased by 5 % in the case of contracts concluded by recognized producer organizations or groups, or associations thereof.

The aid shall be paid to the producers, producer groups or associations.

2. Aid amounting to ECU 6,04 per kilogram shall be paid out for the production of green vanilla falling within CN code ex 0905 and used to produce dried (black) vanilla or vanilla extracts.

The aid shall be paid out up to an annual maximum quantity of 75 tonnes.

3. Aid amounting to ECU 44,68 per kilogram shall be paid out for the production of essential geranium and vetiver oils, falling within CN codes 3301 21 to 3301 90 90.

The aid shall be paid up to an annual maximum of 30 tonnes in the case of geranium oil and 5 tonnes in the case of vetiver oil.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72. The same procedure shall be used to fix the product categories and the amounts of aid referred to in paragraph 1, and the maximum quantities referred to in paragraph 3.

(*) OJ No L 118, 20. 5. 1972, p. 1. Regulation as last amended by Regulation (EC) No 2753/94 (OJ No L 292, 12. 11. 1994, p. 3).'

10. Article 14 shall be replaced by the following :

'Article 14

1. Aid shall be granted for the production of processed fruits and vegetables obtained from products harvested in the FOD.

The production aid shall be paid to processors who have paid producers for their raw materials a price not less than the minimum price under contracts between producers or recognized producer groups or associations thereof and processors or their legally constituted organizations or associations. The Member State shall fix the minimum price for the raw materials on the basis of the production costs involved.

2. The amount of aid shall be fixed on a flat-rate basis for each of the product categories to be determined, by reference to the prices of the local raw materials used and the import prices for the same raw materials.

3. The aid shall be paid out within the limits of maximum annual quantities established for each product category.

4. The list of processed products for which aid is granted and detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22 of Regulation (EEC) No 426/86^(*). The same procedure shall be used to fix the product categories and the amounts of aid referred to in paragraph 2, and the maximum quantities referred to in paragraph 3.

^(*) OJ No L 49, 27. 2. 1986, p. 1. Regulation as last amended by Regulation (EC) No 1490/94 (OJ No L 161, 29. 6. 1994, p. 13).'

11. The following paragraph shall be added to Article 15:

'5. The aid provided for in this Article shall also be paid, on the terms laid down in paragraphs 1 to 4, in respect of:

- products processed from fruit or vegetables harvested in the FOD,
- essential geranium and vetiver oils falling within CN codes 3301 21 to 3301 90 90,
- dried (black) vanilla falling within CN code ex 0905 and vanilla extracts falling within CN code 3301 90 90,

for which annual disposal and marketing contracts have been concluded.

However, in respect of melons falling within CN code ex 0807 10 90, aid may be granted in a depart-

ment for a quantity exceeding 3 000 tonnes provided that the total volume eligible for aid for all the FOD is not exceeded.'

12. Article 18 shall be replaced by the following:

'Article 18

1. Aid shall be granted for the direct processing of sugar cane produced in the FOD into sugar syrup or agricultural rum as defined in Article 1 (4) (a) (2) of Regulation (EEC) No 1576/89^(*).

The aid shall be paid to the manufacturer of sugar syrup or to the distiller on condition that he pays the sugar cane producer a minimum price, to be determined.

2. The aid shall be paid:

- in the case of sugar syrup, up to the limit of an annual maximum quantity of 250 tonnes,
- in the case of agricultural rum, up to the limit of an overall quantity corresponding to the average quantity of agricultural rum sold during the three marketing years 1987/1988, 1988/1989 and 1989/1990.

^(*) OJ No L 160, 12. 6. 1989, p. 1. Regulation as last amended by Regulation (EEC) No 3280/92 (OJ No L 327, 13. 11. 1992, p. 3).'

13. The following Article shall be added:

'Article 22a

The technical adjustments to this Regulation to take account of the amendments to the rules adopted by the Council shall be effected in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 or in the corresponding Articles of the other Regulations on the common organization of the markets in the sectors concerned or in Article 29 of Regulation (EEC) No 4253/88, whichever is appropriate.'

14. The Annex appearing in the Annex to this Regulation shall be added.

Article 2

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

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

Done at Luxembourg, 30 October 1995.

For the Council

The President

J. SOLANA

ANNEX

ANNEX

Products covered by the supply arrangements referred to in Article 2 and 3

Cereals and cereal products intended for human consumption and animal feed.

Hops.

Seed potatoes.

Vegetable oils for use in the processing industry.

Fruit pulps, purées and concentrated juices for processing, other than those qualifying for the aid provided for in Article 14.'

COUNCIL REGULATION (EC) No 2599/95

of 30 October 1995

opening and providing for the administration of a Community tariff quota for rum originating in the African, Caribbean and Pacific (ACP) States (1996 to 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Fourth ACP-EEC Convention⁽¹⁾ entered into force on 1 September 1991;

Whereas, pursuant to Protocol 6 to the said Convention, with regard to the arrangements applicable from 1996 the Council has decided, on the basis of a report from the Commission, to discontinue as from 1 January 1996 the quota for 'light' ACP rum and to retain a tariff quota for 'traditional' ACP rum until full liberalization on 1 January 2000;

Whereas the volume of the tariff quota decided on by the Council has been set at 58 000 hectolitres of pure alcohol for 1996, 61 000 hectolitres for 1997, 64 000 hectolitres for 1998 and 67 000 hectolitres for 1999;

Whereas for these reasons an appropriate definition of 'traditional' ACP rum should be given; whereas to that end the general definition of rum given in Regulation (EEC) No 1576/89⁽²⁾ which stipulates that traditional rum is characterized by a high content of volatile substances other than ethyl and methyl alcohol, should be taken as a basis;

Whereas equal and continuous access to the said quota should be ensured for all Community importers and the rates laid down for the quota should be applied consis-

tently to all imports of the products in question into all Member States until the quota is exhausted; whereas the decision for the opening of tariff quotas in fulfilment of its international obligations should be taken by the Community; whereas, to ensure the efficient common administration of these quotas, however, there is no obstacle to authorizing the Member States to draw from the quota volumes the necessary quantities corresponding to actual imports; whereas, however, this method of administration requires close cooperation between the Member States and the Commission and the latter must, in particular, be able to monitor the rate at which the quotas are used up and inform the Member States accordingly;

Whereas measures should be laid down to ensure that Protocol 6 is implemented under conditions such as to permit the development of traditional trade flows between the ACP States and the Community, and between the Member States,

HAS ADOPTED THIS REGULATION:

Article 1

The following products originating in ACP States shall be imported free of customs duties for the periods and within the limits of the Community tariff quotas shown next to each of them.

Order No	CN code	Taric sub-division	Description	Period	Quota volume (in hl of pure alcohol)	Quota duty
09.1617	ex 2208 40 10 ex 2208 40 90	*10 *10	Rum with a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol with a 10 % tolerance	1.1.1996-31.12.1996	58 000	Free
				1.1.1997-31.12.1997	61 000	
				1.1.1998-31.12.1998	64 000	
				1.1.1999-31.12.1999	67 000	

⁽¹⁾ OJ No L 229, 17. 8. 1991, p. 3.

⁽²⁾ OJ No L 160, 12. 6. 1989, p. 1. Regulation as last amended by the 1994 Act of Accession.

Article 2

The tariff quotas referred to in Article 1 shall be administered by the Commission, which may take all appropriate administrative measures to ensure the effective administration thereof.

Article 3

The provisions required to implement Article 1, and in particular:

- (a) the technical amendments and adjustments which may be needed as a result of amendments to the combined nomenclature and the Taric codes;
- (b) the adjustments required as a result of the conclusion of protocols or exchanges of letters between the Community and the ACP States concerned in the framework of the Convention referred to herein;

shall be adopted in accordance with the procedure laid down in Article 4 (2).

Article 4

1. The Commission shall be assisted by the Customs Code Committee established by Article 247 of Regulation (EEC) No 2913/92⁽¹⁾.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission shall defer application of the measures which it has decided upon for three months from the date of such communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous indent.

3. The Committee may examine any issue in connection with the implementation of this Regulation put

forward by its chairman either on his own initiative or at the request of a Member State.

Article 5

If an importer presents in a Member State a declaration of entry for free circulation together with a request for preferential treatment for a product referred to in Article 1 and the declaration is accepted by the customs authorities, the Member State concerned shall inform the Commission and draw an amount corresponding to these requirements from the quota volume.

Requests to draw from the quota, indicating the date of acceptance of the said declarations, must be transmitted to the Commission without delay.

Drawings shall be granted by the Commission by reference to the date of acceptance by the customs authorities of the Member State concerned of the declarations of entry for free circulation, provided the residual balance so permits.

If a Member State does not use the quantities drawn, it shall return them to the quota as soon as possible.

If the quantities requested are greater than the available balance of the quota volume, allocation shall be made on a pro rata basis. The Member States shall be informed by the Commission of the drawings granted.

Article 6

Each Member State shall ensure that importers of the products concerned have equal and continuous access to the quota as long as the residual balance so permits.

Article 7

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 8

Council Regulation (EEC) No 3705/90 of 18 December 1990 on the safeguard measures provided for in the Fourth ACP-EEC Convention⁽²⁾ shall apply to the products covered by this Regulation.

Article 9

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 January 1996.

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1. Regulation as last amended by the 1994 Act of Accession.

⁽²⁾ OJ No L 358, 21. 12. 1990, p. 4.

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

Done at Luxembourg, 30 October 1995.

For the Council

The President

J. SOLANA

COMMISSION REGULATION (EC) No 2600/95
of 8 November 1995
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 2556/95 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 2556/95 to the informa-

tion known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 2556/95 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 November 1995.

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

Done at Brussels, 8 November 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 262, 1. 11. 1995, p. 2.

ANNEX

to the Commission Regulation of 8 November 1995 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽²⁾
	— ECU/100 kg —
1701 11 90 100	40,25 ⁽¹⁾
1701 11 90 910	39,74 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	40,25 ⁽¹⁾
1701 12 90 910	39,74 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,4376
	— ECU/100 kg —
1701 99 10 100	43,76
1701 99 10 910	43,20
1701 99 10 950	43,20
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,4376

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

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

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

COMMISSION REGULATION (EC) No 2601/95

of 8 November 1995

fixing the maximum export refund for white sugar for the 15th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1813/95

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⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1813/95 of 26 July 1995 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1813/95 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 15th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 990/93⁽⁴⁾, as amended by Regulation (EC) No 1380/95⁽⁵⁾, 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 the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 15th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1813/95 the maximum amount of the export refund is fixed at ECU 46,240 per 100 kilograms.
2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 9 November 1995.

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

Done at Brussels, 8 November 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 175, 27. 7. 1995, p. 12.

⁽⁴⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁵⁾ OJ No L 138, 21. 6. 1995, p. 1.

COMMISSION REGULATION (EC) No 2602/95

of 8 November 1995

fixing the representative prices and the additional import duties for molasses 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 market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽³⁾, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or

if the price quoted in the offer relates only to a small quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 November 1995.

⁽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. 12.

⁽⁴⁾ OJ No L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 8 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question in the event of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,91	—	0,00
1703 90 00 ⁽¹⁾	9,55	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 2603/95

of 8 November 1995

amending Regulation (EEC) No 3201/90 laying down detailed rules for the description and presentation of wines and grape musts

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 Article 72 (5) thereof,

Whereas Council Regulation (EEC) No 2392/89 ⁽³⁾, as last amended by Regulation (EEC) No 3897/91 ⁽⁴⁾, lays down general rules for the description and presentation of wines and grape musts;

Whereas Commission Regulation (EEC) No 3201/90 ⁽⁵⁾, as last amended by Regulation (EC) No 1362/94 ⁽⁶⁾, lays down detailed rules for the description and presentation of wines and grape musts;

Whereas it is useful to include references to additional traditional terms relating to the ageing of Italian, French and German quality wines *psr*;

Whereas certain technical adaptations need to be made to Regulation (EEC) No 3201/90 on account of the accession of Austria;

Whereas certain errors which found their way into Regulation (EC) No 1362/94 concerning Chapters 32 'Former Yugoslav Republic of Macedonia' and 33 'Slovenia' of Annex IV to Regulation (EEC) No 3201/90 should be corrected;

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

Regulation (EEC) No 3201/90 is hereby amended as follows:

1. the following indent is added to the first subparagraph of Article 3 (1):

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 31.

⁽³⁾ OJ No L 232, 9. 8. 1989, p. 13.

⁽⁴⁾ OJ No L 368, 31. 12. 1991, p. 5.

⁽⁵⁾ OJ No L 309, 8. 11. 1990, p. 1.

⁽⁶⁾ OJ No L 150, 16. 6. 1994, p. 7.

— "Qualitätswein mit staatlicher Prüfnummer", "Qualitätswein", "Qualitätswein besonderer Reife und Leseart" or "Prädikatswein";

2. In Article 3 (2), 'and "Eiswein"' is replaced by "Eiswein" and "Strohwein";

3. the following indent is added to Article 3 (3) (c) as regards Italian quality wines *psr*:

— "occhio di pernice";

4. in Article 3 (4) "Strohwein", "Qualitätswein besonderer Reife und Leseart", "Prädikatswein" is added after 'Eiswein';

5. the term 'Stift' is added after 'Kloster' in second indent of Article 6 (1);

6. in Article 13 (2) (a) and third indent of Article 13 (2) (b), 'Austria' is deleted;

7. the following point is added to Article 14 (1):

'(h) the description of an Austrian table wine may be supplemented by the following terms:

- "Schilcher",
- "Heuriger",
- "Bergwein";

8. the first indent of Article 14 (2) (b) is replaced by the following:

— "vin primeur" or "primeur";

9. the fourth indent of Article 14 (3) (b) is replaced by the following:

— "vin primeur" or "primeur";

10. the following point is added to Article 14 (3):

'(h) for Austrian wines:

- "Schilcher",
- "Heuriger",
- "Bergwein";

11. the second indent of Article 17 (2) (b) is deleted;

12. in Article 17 (2) (c) (i):

(a) the first indent is replaced by the following:

‘— “vin vieux”, “vin vieilli” or “élevé en fûts” (with the name of the wood added or not) in the case of French quality wines psr provided that the French provisions regarding the use of these terms are observed.’;

(b) the following indent is added:

‘— “im Holzfaß gereift” or “im Barrique” in the case of German quality wines psr provided that the German provisions regarding the use of these terms are observed.’;

13. the following point is added to Article 18 (1):

‘(i) for Austrian wines: “Erzeugerabfüllung”, “Haue-
rabfüllung”, “Gutsabfüllung”. The term “Gutsab-
füllung” may only be used where the conditions
laid down in the second subparagraph are
observed.’;

14. Annexes III and IV are amended in accordance with the Annex to this Regulation.

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, 8 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Regulation (EEC) No 3201/90 is amended as follows :

1. The following heading and names are added after the section headed '8. UNITED KINGDOM' in Annex III :

Name of the vine variety used in the classification of vine varieties for the administrative unit concerned	Accepted synonyms	
	In general	For export or consignment to other Member States
'9. AUSTRIA		
Bouvier		
Blauburger		
Blauer Burgunder	Blauer Spätburgunder, Blauburgunder, Pinot noir	
Blauer Portugieser		
Blauer Wildbacher		
Blaufränkisch		
Cabernet franc		
Cabernet Sauvignon		
Chardonnay ⁽¹⁾	Morillon	
Frühroter Veltliner	Malvasier	
Furmint		
Gewürztraminer	Roter Traminer	
Goldburger		
Grauer Burgunder	Ruländer, Pinot gris	
Grüner Veltliner	Weißgipfler	
Jubiläumsrebe		
Merlot		
Müller-Thurgau ⁽²⁾	Rivaner	
Muskat-Ottonel		
Muskateller	Roter Muskateller, Gelber Muskateller	
Neuburger		
Roter Veltliner		
Rotgipfler		
St. Laurent		
Sauvignon blanc ⁽³⁾		
Scheurebe	Sämling 88	
Sylvaner	Grüner Sylvaner	
Weißer Burgunder	Pinot blanc, Weißburgunder, Klevner	
Weißer Riesling	Riesling, Rheinriesling	
Welschriesling		
Zierfandler	Spätrot	
Zweigelt	Blauer Zweigelt, Rotburger	

⁽¹⁾ The synonym "Feinburgunder" may be used in Austria for a transitional period of five years from the entry into force of this Regulation.

⁽²⁾ The synonym "Riesling X Sylvaner" may be used in Austria for a transitional period of five years from the entry into force of this Regulation.

⁽³⁾ The synonym "Muskat-Sylvaner" may be used in Austria for a transitional period of five years from the entry into force of this Regulation.

2. Annex IV is amended as follows :

(a) Section '5. AUSTRIA' is deleted.

(b) Chapters 32 'FORMER YUGOSLAV REPUBLIC OF MACEDONIA' and 33 'SLOVENIA' are replaced by the following :

Names of the varieties accepted in the Community	Accepted synonyms
'32. FORMER YUGOSLAV REPUBLIC OF MACEDONIA'	
Burgundec crn	Pinot noir, Blauburgunder, Blauer Spätburgunder, Spätburgunder
Frankovka	Blaufränkisch
Game bojadiser	Gamay teinturier
Portugizec crn	Porugalka
Traminec bel	Traminer white
Game crn	Gamay noir
Grenaš crn	Grenache noir
Kaberne franc	Cabernet franc
Kaberne sovinjon	Cabernet sauvignon
Kratošija	Krakošija, Vrančina, Krakosija
Merlot	Merlau nero, Merlot nero
Plavec mali	Kašteljanac, plavac, Crnac, Crljenak, Pagadebit
Prokupec	Kaminičarka, zarčin, Prokupertz noir, skopsko crno, Niševka
Refoško	Refoško crno, Teran, Teran noir, Terrano
Skadarka crna	Kadarka, Kadarka noir, Gmza, Ceteroska
Stanusina	Stanusina crna, Grades
Vranec	Vranac, Vranec crmnicki, Vranac Prhljavac, Vranac crnogorski
Muskat Hamburg	Muskat de Hamburg, Muscato d'Amburgo
Melnicko crno	Melnik, Siroka melnicka loza
Burgundec bel	Pinot blanc
Burgundec siv	Pinot gris, Pinot grigio, Rulander
Grenaš bel	Belan, Grenache blanc, Sillia blanc
Juni blanc	Ugni blanc
Sipon	Moslavac, Furmint, Furmint blanc, Mozler
Muskat otonel	Muscat Ottonel, Muscat Ottonel Blanc
Sardone	Chardonnay blanc
Plovdina	Pamid, Plovdina rouge, Saricibuk, Slaňkamenka crvena
Rizling Italijanski	Laski rizling, Grasevina, Talijanski rizling
Rizling Rajnski	Riesling blanc, Weisser Riesling, Weissrisling
Rkacatli	Rikat, Kukura, Topolek, Korolek, Mamami rkaceteli
Semijon	Semillon blanc
Smederevka	Smederevka blanche, Dimijat, Szemendra, Dertonija
Sovinjon	Sauvignon blanc, Muskatni silvanac
Temjanika	Vanilija, Temenuga, Tamaiosa, Muscat beli, Muskat zuti
Traminec crven	Traminer rouge, Traminer rotter, Traminer red
Traminec mirisliv	Traminer aromatique, Savagnin blanc, Gewürztraminer
Žilavka	Žilavka blanche, Žilavka Mostarska
Župljanka	
Neoplanta	

Names of the varieties accepted in the Community	Accepted synonyms
33. SLOVENIA	
Laski rizling	Italijanski rizling, Laski rizling, Laski Riesling
Renski rizling	Riesling, White Riesling, Weißer Riesling
Sauvignon	Sauvignon blanc, Weißsauvignon, Weißer Sauvignon, Fumé blanc
Beli pinot	Beli burgundec, Pinot blanc, Weißburgunder, White pinot, Weißer Burgunder, Pinot bianco
Sivi pinot	Rulandec, Sivi burgundec, Pinot gris, Grauburgunder, Grauer Burgunder, Pinot grigio, Ruländer
Chardonnay	
Traminec	Rdeci traminec, Diseci traminec, Gewürztraminer
Zeleni silvanec	Silvanec, Green sylvaner, Grüner Silvaner, Sylvaner, Silvaner, Green Silvaner
Rumeni Muskat	Muskat beli, Gelber Muscateller
Šipon	Mosler, Furmint
Muškat Ottonel	Muscat Ottonel, Muskat Ottonel
Ranina	Bouvier, Bouviejeva ranina, Radgonska ranina, Bouvier-traube, Bouvier ranina, Bouviejeva rana
Rizvanec	Rizvaner, Muller-Thurgau, Rivaner
Modri pinot	Pinot noir, Blauer spatburgunder, Spatburgunder, Pinot nero
Frankinja	Modra frankinja, Frankovka, Blaufrankisch
Portugalka	Modra portugalka, Portugieser, Blauer portugieser, Portugais blue
Kraljevina	Rdeča kraljevina
Žametovka	Žametna črnina, Modra kaučina, Kavčina, Modra kavčina, Kaučina, Žametasta črnina, Črnina
Žlahtnina	Chasselas, Gutedel
Kerner	
Ranfol	Belina, Štajerska belina
Gamay	Game, Gamay noir
Šentlovrenka	St. Laurent, Saint Laurent
Zweigelt	
Rumeni plavec	
Rebula	Ribolla, Rebolla, Rumena rebula, Zlata rebula
Malvazija	Istrska bela malvazija, Istrska malvazija
Cabernet Sauvignon	Kabernet, Cabernet, Kabernet Sauvignon
Prosecco	Glera
Refosk	Refosko, Refosco, Refosko, Teran, Mondeuse, Kraski teran, Tcranovka
Cabernet franc	
Pinela	Pinella
Zelen	
Merlot	
Barbera	
Malocm	Piccola nera'
Cvicek	

COMMISSION REGULATION (EC) No 2604/95

of 8 November 1995

amending Regulation (EC) No 1088/95 opening an invitation to tender for the refund for the export of common wheat to all third countries

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⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as amended by Regulation (EC) No 2480/95⁽⁴⁾, and in particular Article 4 thereof,

Whereas the detailed procedural rules governing invitations to tender were, at the time of publication of Commission Regulation (EC) No 1088/95⁽⁵⁾ as regards the fixing of an export refund, laid down in Commission Regulation (EEC) No 1533/93⁽⁶⁾, as amended by Regulation (EC) No 1501/95; whereas Regulation (EEC) No 1533/93 has been replaced by Regulation (EC) No 1501/95 which contains detailed procedural rules governing invitations to tender both as regards the fixing of an export refund and an export tax; whereas it is necessary to amend Regulation (EC) No 1088/95 to take account of such changes;

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

Regulation (EC) No 1088/95 is hereby amended as follows:

1. the title shall be replaced by the following:

‘opening an invitation to tender for the refund or the tax for the export of common wheat to all third countries’;

2. Article 1 (1) shall be replaced by the following:

‘1. Tenders either for the export refund or for the export tax provided for in Article 4 of Commission Regulation (EC) No 1501/95^(*) shall be invited.

(*) OJ No L 147, 30. 6. 1995, p. 7.’;

3. Article 3 shall be replaced by the following:

Article 3

The security referred to in Article 5 of Regulation (EC) No 1501/95 shall be ECU 12 per tonne.’;

4. Article 4 (1) shall be replaced by the following:

‘1. Notwithstanding Article 21 (1) of Commission Regulation (EEC) No 3719/88, export licences issued pursuant to Article 8 (1) of Regulation (EC) No 1501/95 shall, for the purpose of determining their period of validity, be deemed to have been issued on the day on which the tender was submitted.’;

5. Article 5 shall be replaced by the following:

Article 5

1. The Commission shall decide, pursuant to the procedure laid down in Article 23 of Regulation (EEC) No 1766/92:

- to fix a maximum export refund, taking account in particular of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or
- to fix a minimum export tax, taking into account in particular the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or
- to make no award.

2. Where a maximum export refund is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of refund equal to or less than such maximum export refund.

3. Where a minimum export tax is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of tax equal to or more than such minimum export tax.’;

6. Annex I shall be 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*.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ No L 256, 26. 10. 1995, p. 9.

⁽⁵⁾ OJ No L 109, 16. 5. 1995, p. 13.

⁽⁶⁾ OJ No L 151, 23. 6. 1993, p. 15.

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

Done at Brussels, 8 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

*ANNEX**ANNEX I***Weekly tender for the refund or the tax for the export of common wheat to all third countries**

(Regulation (EC) No 1088/95)

(Closing date for the submission of tenders (date/time))

1	2	3	
Number of tenderer	Quantity in tonnes	A	B
		Amount of export tax in ECUs per tonne	Amount of export refund in ECUs per tonne
1			
2			
3			
etc.'			

COMMISSION REGULATION (EC) No 2605/95

of 8 November 1995

on the transport for the free supply to Tadjikistan 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 Tadjikistan⁽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 Regulation (EC) No 1975/95; whereas, it is appropriate to open a tendering procedure for the supply of 12 000 tonnes of common wheat flour intended for Tadjikistan;

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 two 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 12 000 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 two 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: 6 000 tonnes (net):

— 3 000 tonnes made available in the port of Antwerp with effect from 27 November 1995,

— 3 000 tonnes made available in the port of Antwerp with effect from 4 December 1995.

Lot No 2: 6 000 tonnes (net):

— 3 000 tonnes made available in the port of Venice (Porto Marghera) with effect from 27 November 1995,

— 3 000 tonnes made available in the port of Trieste with effect from 4 December 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:

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 Brussels.

The closing date for the lodgement of tenders shall be 20 November 1995 at 12 noon (Brussels time).

In the case of non-acceptance of offers on 20 November, a second closing date for the lodgement of offers shall be 27 November 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).

In relation to the transport to Tadjikistan, the tenderer must submit a letter of guarantee issued by the port and rail authorities of the country of first entry into the CIS certifying the availability of the means of transport as well as the wagons necessary for the proper execution of the operation. Article 12 (2) of Regulation (EC) No 2009/95 is applicable also in the case of non-payment to the railway authorities of the different republics of the CIS crossed.

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.

⁽¹⁾ OJ No L 191, 12. 8. 1995, p. 2.

⁽²⁾ OJ No L 196, 19. 8. 1995, p. 4.

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, 8 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

LOT No 1

Tadjikistan : 6 000 tonnes (net) of common wheat flour

Delivery stage : Goods not unloaded at the frontier points.

Final delivery date at the frontier points :

Bekabad — 3 000 tonnes by 16 January 1996

Sari-Assia — 3 000 tonnes by 2 February 1996

LOT No 2

Tadjikistan : 6 000 tonnes (net) of common wheat flour

Delivery stage : goods not unloaded at the frontier points.

Final delivery date at the frontier points :

Sari-Assia — 3 000 tonnes by 16 January 1996

Sari-Assia — 3 000 tonnes by 2 February 1996

ANNEX II

Place of take-over in Tadjikistan

1. Frontier points of Sari-Assia 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 certificate 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 Tadjikistan,
Dushanbe,
Ul. Bochtar No 37.

ANNEX III

Regulation (EC) No 2605/95

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):	
No 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 2605/95

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) :	
No 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 2605/95

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)	No of packets	Date frontier crossed	Quantities ⁽¹⁾ Signature and remarks
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

.....

.....

.....

.....

COMMISSION REGULATION (EC) No 2606/95**of 8 November 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 9 November 1995.

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

Done at Brussels, 8 November 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 8 November 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 45	052	52,2	0806 10 50	528	94,7
	060	80,2		600	71,3
	064	59,6		624	78,0
	066	41,7		999	84,1
	068	62,3		052	105,3
	204	52,0		064	75,6
	212	117,9		066	49,4
	624	125,3		220	110,8
	999	73,9		400	261,9
				412	132,4
0707 00 35	052	98,6	0808 10 92, 0808 10 94, 0808 10 98	508	199,8
	053	166,9		512	186,0
	060	61,0		600	64,5
	066	53,8		624	123,2
	068	60,4		999	130,9
	204	49,1		064	77,3
	624	144,4		388	39,2
	999	90,6		400	64,3
0709 90 79	052	61,2		404	57,7
	204	77,5		508	68,4
	624	196,3		512	51,2
	999	111,7		524	57,4
0805 20 31	204	126,2		528	48,0
	999	126,2		800	73,8
				804	19,8
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	51,9	0808 20 67	999	55,7
	464	163,3		052	80,7
	624	140,4		064	69,1
	999	118,5		388	79,6
0805 30 40	052	71,7		400	53,8
	388	67,5		512	89,7
	400	151,4		528	84,1
	512	54,8		800	55,8
	520	66,5		804	112,9
	524	100,8		999	78,2

⁽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 2607/95

of 8 November 1995

altering the corrective amount applicable to the refund on cereals

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 Regulation (EC) No 1863/95⁽²⁾, and in particular Article 13 (4) thereof,

Whereas the corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 2408/95⁽³⁾, as amended by Regulation (EC) No 2575/95⁽⁴⁾;

Whereas, on the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered;

Whereas the corrective amount must be fixed according to the same procedure as the refund; whereas it may be altered in the period between fixings;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used

to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 1053/95⁽⁸⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1 (1), points (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 November 1995.

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

Done at Brussels, 8 November 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 246, 13. 10. 1995, p. 31.

⁽⁴⁾ OJ No L 262, 1. 11. 1995, p. 43.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ No L 107, 12. 5. 1995, p. 4.

ANNEX

to the Commission Regulation of 8 November 1995 altering the corrective amount
applicable to the refund on cereals

(ECU/tonne)

Product code	Destination ⁽¹⁾	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3	5th period 4	6th period 5
0709 90 60 000	—	—	—	—	—	—	—	—
0712 90 19 000	—	—	—	—	—	—	—	—
1001 10 00 200	—	—	—	—	—	—	—	—
1001 10 00 400	—	—	—	—	—	—	—	—
1001 90 91 000	—	—	—	—	—	—	—	—
1001 90 99 000	—	—	—	—	—	—	—	—
1002 00 00 000	01	0	0	0	0	0	—	—
1003 00 10 000	—	—	—	—	—	—	—	—
1003 00 90 000	01	—	-1,30	-2,60	-3,90	-5,20	—	—
1004 00 00 200	—	—	—	—	—	—	—	—
1004 00 00 400	01	0	0	0	0	0	—	—
1005 10 90 000	—	—	—	—	—	—	—	—
1005 90 00 000	—	—	—	—	—	—	—	—
1007 00 90 000	—	—	—	—	—	—	—	—
1008 20 00 000	—	—	—	—	—	—	—	—
1101 00 11 000	—	—	—	—	—	—	—	—
1101 00 15 100	01	0	-1,78	-3,56	-5,34	-7,12	—	—
1101 00 15 130	01	0	-1,66	-3,32	-4,98	-6,64	—	—
1101 00 15 150	—	—	—	—	—	—	—	—
1101 00 15 170	—	—	—	—	—	—	—	—
1101 00 15 180	—	—	—	—	—	—	—	—
1101 00 15 190	—	—	—	—	—	—	—	—
1101 00 90 000	—	—	—	—	—	—	—	—
1102 10 00 500	01	0	0	0	0	0	—	—
1102 10 00 700	—	—	—	—	—	—	—	—
1102 10 00 900	—	—	—	—	—	—	—	—
1103 11 10 200	—	—	—	—	—	—	—	—
1103 11 10 400	—	—	—	—	—	—	—	—
1103 11 10 900	—	—	—	—	—	—	—	—
1103 11 90 200	—	—	—	—	—	—	—	—
1103 11 90 800	—	—	—	—	—	—	—	—

⁽¹⁾ The destinations are identified as follows:

01 all third countries.

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

COMMISSION REGULATION (EC) No 2608/95
of 8 November 1995
fixing the import duties in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1530/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1573/95 of 30 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1418/76 as regards import duties in the rice sector ⁽³⁾, as amended by Regulation (EC) No 1818/95 ⁽⁴⁾, and in particular Article 4 (1) thereof,

Whereas Article 12 of Regulation (EEC) No 1418/76 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention buying price valid for such products on importation and increased by a certain percentage according to whether it is Indica or Japonica rice and also husked or milled rice, minus the cif import price applicable to the consignment in question provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (4) of Regulation (EEC) No 1418/76, the cif import prices are calculated on the basis of the prices for the product in question on the world market;

Whereas Regulation (EC) No 1573/95 lays down detailed rules for the application of Regulation (EEC) No 1418/76 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference referred to in Annex I to Regulation (EC) No 1573/95 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1573/95 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 12 (1) and (2) of Regulation (EEC) No 1418/76 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 9 November 1995.

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

Done at Brussels, 8 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 5.

⁽³⁾ OJ No L 150, 1. 7. 1995, p. 53.

⁽⁴⁾ OJ No L 175, 27. 7. 1995, p. 25.

ANNEX I

to the Commission Regulation of 8 November 1995 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ^(*)				
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽³⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India ⁽²⁾ Article 4, Regulation (EC) No 1573/95	Basmati Pakistan ⁽²⁾ Article 4, Regulation (EC) No 1573/95	Arrangement in Regulation (EEC) No 3877/86 ⁽⁵⁾
1006 10 21	⁽³⁾	150,76			
1006 10 23	⁽³⁾	150,76			
1006 10 25	⁽³⁾	150,76			
1006 10 27	⁽³⁾	150,76			—
1006 10 92	⁽³⁾	150,76			
1006 10 94	⁽³⁾	150,76			
1006 10 96	⁽³⁾	150,76			
1006 10 98	⁽³⁾	150,76			—
1006 20 11	251,80	121,56			
1006 20 13	251,80	121,56			
1006 20 15	251,80	121,56			
1006 20 17	335,00	163,16	85,00	285,00	—
1006 20 92	251,80	121,56			
1006 20 94	251,80	121,56			
1006 20 96	251,80	121,56			
1006 20 98	335,00	163,16	85,00	285,00	—
1006 30 21	518,36	244,27			
1006 30 23	518,36	244,27			
1006 30 25	518,36	244,27			
1006 30 27	585,85	278,01			—
1006 30 42	518,36	244,27			
1006 30 44	518,36	244,27			
1006 30 46	518,36	244,27			
1006 30 48	585,85	278,01			—
1006 30 61	518,36	244,27			
1006 30 63	518,36	244,27			
1006 30 65	518,36	244,27			
1006 30 67	585,85	278,01			—
1006 30 92	518,36	244,27			
1006 30 94	518,36	244,27			
1006 30 96	518,36	244,27			
1006 30 98	585,85	278,01			—
1006 40 00	⁽³⁾	90,38			

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ No L 84, 30. 3. 1990, p. 85).

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

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 12 (3) of Regulation (EEC) No 1418/76.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ No L 337, 4. 12. 1990, p. 1) and Commission Regulation (EEC) No 862/91 (OJ No L 88, 9. 4. 1991, p. 7).

- (¹) Only for imports of rice of the long-grain aromatic Basmati variety under the arrangements laid down in amended Council Regulation (EEC) No 3877/86 (OJ No L 361, 20. 12. 1986, p. 1).
- (²) No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ No L 263, 19. 9. 1991, p. 1).
- (³) For husked rice of the Basmati variety originating in India and not imported under the arrangements in Regulation (EEC) No 3877/86, a reduction of ECU 250 per tonne applies (Article 4, Regulation (EC) No 1573/95).
- (⁴) For husked rice of the Basmati variety originating in Pakistan and not imported under the arrangements in Regulation (EEC) No 3877/86, a reduction of ECU 50 per tonne applies (Article 4, Regulation (EC) No 1573/95).
- (⁵) Duties fixed in the Common Customs Tariff.

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne) (¹)	(²)	335,00	585,85	251,80	518,36	(²)
2. Elements of calculation :						
(a) Arag cif price (\$/tonne)	—	394,25	448,34	509,99	508,92	—
(b) fob price (\$/tonne)	—	—	—	479,99	478,92	—
(c) Sea freight (\$/tonne)	—	—	—	30	30	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Where rice is imported during the month following fixing, these import duties must be adjusted in accordance with the fourth subparagraph of Article 4 (1) of Regulation (EC) No 1573/95.

(²) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 2609/95
of 8 November 1995
fixing the import duties in the cereals sector

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⁾,

Having regard to Commission Regulation (EC) No 1502/95 of 29 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector ⁽³⁾, as last amended by Regulation (EC) No 2481/95 ⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas Article 10 of Regulation (EEC) No 1766/92 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question;

Whereas, pursuant to Article 10 (3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market;

Whereas Regulation (EC) No 1502/95 lays down detailed rules for the application of Council Regulation (EEC) No

1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1502/95 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1502/95 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10 (2) of Regulation (EEC) No 1766/92 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 9 November 1995.

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

Done at Brussels, 8 November 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 147, 30. 6. 1995, p. 13.

⁽⁴⁾ OJ No L 256, 26. 10. 1995, p. 10.

ANNEX I

Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	11,22	1,22
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	11,22	1,22
	medium quality	31,88	21,88
	low quality	38,14	28,14
1002 00 00	Rye	50,96	40,96
1003 00 10	Barley, seed	50,96	40,96
1003 00 90	Barley, other ⁽³⁾	50,96	40,96
1005 10 90	Maize seed other than hybrid	75,65	65,65
1005 90 00	Maize other than seed ⁽³⁾	75,65	65,65
1007 00 90	Grain sorghum other than hybrids for sowing	50,96	40,96

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1502/95, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean (Article 2 (4) of Regulation (EC) No 1502/95), the importer may benefit from a reduction in the duty of:

- ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or
- ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1502/95 are met.

ANNEX II

Factors for calculating duties (period from 31. 10. to 7. 11. 1995):

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Mid-America	Mid-America
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	138,09	140,73	136,37	99,22	195,08 ⁽¹⁾	117,30 ⁽¹⁾
Gulf premium (ECU/tonne)	—	14,14	12,25	11,89	—	—
Great lake premium (ECU/tonne)	18,95	—	—	—	—	—

⁽¹⁾ Fob Duluth.

2. Freight/cost : Gulf of Mexico — Rotterdam : ECU 10,00 per tonne ; Great Lakes/St Lawrence — Rotterdam : ECU 28,50 per tonne.

3. Subsidy (third paragraph of Article 4 (2) of Regulation (EC) No 1502/95 : ECU 0,00 per tonne).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 30 October 1995

appointing a member and two alternate members of the Committee of the Regions

(95/462/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 198a thereof,

Having regard to the Council Decision of 26 January 1994 appointing members and alternate members of the Committee of the Regions for the period 26 January 1994 to 25 January 1998 ⁽¹⁾,

Whereas a seat as a member of the Committee has become vacant following the resignation of Mr Juan Hormaechea Cazón, notified to the Council on 10 October 1995;

Whereas two seats as alternate members of the Committee have become vacant following the resignation of Mr José Ramón Ruíz Martínez and Mr Ramón Ropero Mancera, notified to the Council on 10 October 1998,

Having regard to the proposal from the Spanish Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Joaquín Martínez Sieso is hereby appointed a member of the Committee of the Regions in place of Mr Juan

Hormaechea Cazón for the remainder of the latter's term of office, which runs until 25 January 1996.

Mr Emilio Del Valle Rodríguez is hereby appointed an alternate member of the Committee of the Regions in place of Mr José Ramón Ruíz Martínez for the remainder of the latter's term of office, which runs until 25 January 1998.

Mr Ignacio Sánchez Amor is hereby appointed an alternate member of the Committee of the Regions in place of Mr Ramón Ropero Mancera for the remainder of the latter's term of office, which runs until 25 January 1998.

Done at Luxembourg, 30 October 1995.

For the Council

The President

J. SAAVEDRA ACEVEDO

⁽¹⁾ OJ No L 31, 4. 2. 1994, p. 29.

COUNCIL DECISION
of 30 October 1995
appointing a member and an alternate member of the Committee of the
Regions

(95/463/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 198a thereof,

Having regard to the Council Decision of 26 January 1994 appointing members and alternate members of the Committee of the Regions for the period 26 January 1994 to 25 January 1998 ⁽¹⁾,

Whereas a seat as a member on the Committee has become vacant following the resignation of Mr Juan Cruz Alli Aranguren, notified to the Council on 12 October 1995;

Whereas a seat as an alternate member on the Committee has become vacant following the resignation of Mr Miguel Sanz Sesma, notified to the Council on 12 October 1995;

Having regard to the proposal from the Spanish Government,

Sole Article

Mr Javier Otano Cid is hereby appointed a member of the Committee of the Regions in place of Mr Juan Cruz Alli Aranguren for the remainder of the latter's term of office, which runs until 25 January 1998.

Mr Juan Cruz Alli Aranguren is hereby appointed an alternate member of the Committee of the Regions in place of Mr Miguel Sanz Sesma for the remainder of the latter's term office, which runs until 25 January 1998.

Done at Luxembourg, 30 October 1995.

For the Council

The President

J. SAAVEDRA ACEVEDO

⁽¹⁾ OJ No L 31, 4. 2. 1994, p. 29.

COMMISSION

COMMISSION DECISION

of 4 April 1995

on German aid to the coal industry for 1995

(Only the German text is authentic)

(Text with EEA relevance)

(95/464/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry⁽¹⁾, and in particular Articles 2 (1) and 9 thereof,

Whereas :

I

By letter of 25 January 1995, Germany notified the Commission, in accordance with Article 9 (1) of Decision No 3632/93/ECSC, of the aid it intended to grant to the coal industry in 1995.

In accordance with that Decision, the Commission establishes the following measures for 1995 :

- aid totalling DM 95 million for maintaining the underground labour force ('Bergmannsprämie'),
- aid totalling DM 5 900 million under the Third Electricity-from-Coal Law of 13 December 1974⁽²⁾ ('drittes Verstromungsgesetz') in the form of revenue from the compensation fund ('Ausgleichsfonds') for 1995. This corresponds to a levy rate ('Kohlepfennig') of 8,5 %,

— aid totalling DM 200 million to cover exceptional costs for the undertakings Ruhrkohle AG, Saarbergwerke AG, Gewerkschaft Auguste Victoria, Sophia Jacoba GmbH and Preussag.

The financial measures proposed by the Federal Government for the coal industry comply with the provisions of Article 1 of Decision No 3632/93/ECSC and are to be approved by the Commission in accordance with Article 9. The Commission is to take its decision above all with regard to the general objectives and criteria defined in Article 2 and the specific criteria defined in Articles 3 and 4 of the Decision. In accordance with Article 9 (6) of the Decision, the Commission is required to check whether the measures are in conformity with the modernization, rationalization and restructuring plans on which it expressed a favourable opinion on 13 December 1994 in accordance with Article 8 (2) and (3).

II

The aid of DM 92,8 million for compensation between coalfields and the aid of DM 50,8 million for compensation for coal with a low volatile-matter content are intended to provide partial compensation for the fact that some coal producers receive revenue which is lower than production costs because of sales to electricity producers. According to the information provided by the Federal Government, the compensation between coalfields relates to 7,4 million tonnes and the compensation for coal with a low volatile-matter content to 2,3 million tonnes. Since 1990 this amount has been reduced by 10 % per annum.

⁽¹⁾ OJ No L 329, 30. 12. 1993, p. 12.

⁽²⁾ German Law Gazette, 17 December 1974, p. 3473.

The inclusion of this aid in the modernization, restructuring and rationalization plan and its gradual reduction will contribute to greater financial discipline in the undertakings concerned. This aid therefore achieves the objectives set out in the first indent of Article 2 (1) of the Decision i.e. to make, in the light of coal prices on international markets, further progress towards economic viability and consequently to reduce aid.

In assessing this aid, the Commission has, in accordance with the second indent of Article 2 (1), also taken account of the urgent need to ease the social and regional impact of restructuring.

In accordance with Article 3 of the Decision, the aid helps to improve the economic viability of the undertakings concerned by reducing production costs.

The slight reduction in costs expected in 1995 at constant prices compared with 1994 should generate a trend towards a reduction in production costs within the meaning of the second indent of Article 3 (2).

In the light of the above and on the basis of the information provided by the Federal Government, the aid planned for 1995 is compatible with the objectives of Decision No 3632/93/ECSC and with the smooth functioning of the internal market.

III

Aid totalling DM 95 million to finance the 'Bergmannsprämie' is planned to enable mining undertakings to maintain their underground labour force in deep mines. This aid corresponds to DM 10 per underground shift. According to the information provided by Germany, this aid is an extra payment to miners and also reduces production costs. It is therefore aid which has to be assessed by reference to Article 3 of the Decision.

The aid contributes to increasing productivity and therefore helps in the restructuring and rationalization of the coal industry. It therefore also helps to achieve the objectives referred to in the first indent of Article 2 (1), i.e. to make, in the light of coal prices on international markets,

further progress towards economic viability and consequently to reduce aid.

In assessing this aid, the Commission has, in accordance with the second indent of Article 2 (1), also taken account of the urgent need to ease the social and regional impact of restructuring.

The slight reduction in costs at constant prices expected in 1995 compared with 1994 should generate a trend towards a reduction in production costs within the meaning of the second indent of Article 3 (2).

This aid will improve the economic viability of the undertakings concerned in accordance with the provisions of Article 3 of the Decision by reducing production costs.

In the light of the above and on the basis of the information provided by the Federal Government, the aid planned for 1995 is compatible with the objectives of Decision No 3632/93/ECSC and with the smooth functioning of the internal market.

IV

The aid of DM 5 900 million to the coal industry planned by the Federal Government is covered by the Third Electricity-from-Coal Law which provides for the creation of a compensation fund financed from a levy, the 'Kohlepfennig'. The purpose of this fund is to provide partial compensation for price differences between Community coal and imported coal in respect of 11,5 million tce and between Community coal and fuel oil in respect of 23 million tce. The compensation fund therefore covers 34,5 million tce per annum and benefits electricity producers who purchase German coal at a price which more or less reflects production costs.

This measure constitutes aid within the meaning of Article 1 (3) of Decision No 3632/93/ECSC, according to which the term 'aid' also covers the allocation, for the direct or indirect benefit of the coal industry, of the charges rendered compulsory as a result of State intervention, without any distinction being drawn between aid granted by the State and aid granted by public or private bodies appointed by the State to administer such aid. The Commission must therefore take a decision on this measure in accordance with Article 9 of the Decision.

A decision has been taken each year pursuant to Commission Decision No 2064/86/ECSC⁽¹⁾ on aid granted in accordance with the Third Electricity-from-Coal Law. In accordance with Article 9 (7) of Decision No 3632/93/ECSC, the existing rules must be brought into line with the provisions of this Decision no later than 31 December 1996. If this has not been done, an assessment must be made as to whether the aid corresponds to the principles set out in Article 2 (1) of the Decision. In this context it should be pointed out that, by decision of 11 October 1994 (ref. 2 BvR 633/86), the Federal Constitutional Court ruled that the provisions of the Third Electricity-from-Coal Law concerning the imposition of the 'Kohlepfennig' levy for the benefit of the German coal industry are incompatible with the basic law 'Grundgesetz') and that they must cease to be applied with effect from 1 January 1996.

The slight increase of 1,7 % in the aid in 1995 compared with 1994 is due to the slight nominal increase in production costs at current prices (which, however, corresponds to a decrease at constant prices) and the estimated downward trend in energy prices in German marks of 10 %, which is itself a result of trends on the world market for coal and heavy fuel oil and changes in the exchange rate of the German mark to the United States Dollar. The Federal Government has therefore decided to place an upper limit at current prices on this aid as from 1 January 1996 and gradually to further reduce it as from 1 January 1997.

In view of the proposed increase in the aid for 1995 of 1,7 % compared with 1994, the Commission welcomes the Federal Government's decision to introduce a ceiling in 1996 and gradually to further reduce it within the meaning of the first indent of Article 2 (1).

In assessing this aid, the Commission has, in accordance with the second indent of Article 2 (1), also taken account of the urgent need to ease the social and regional impact of restructuring.

In the light of the above and on the basis of the information provided by the Federal Government, the aid planned for 1995 is compatible with the objectives set out in Article 2 of Decision No 3632/93/ECSC and with the smooth functioning of the internal market.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

V

The aid amounting to DM 200 million to cover exceptional costs in favour of the undertakings Ruhrkohle AG, Saarbergwerke AG, Gewerkschaft Auguste Victoria, Sophia Jacoba GmbH and Preussag is intended to cover additional costs arising in conjunction with the removal of waste water from pits which were closed down as part of the restructuring measures and are near working pits. Since little or no water is drained from the closed pits, some of the water which is not in any way used in connection with production flows into nearby working pits, thereby creating additional costs.

This aid is expressly referred to in point II (b) of the Annex to Decision No 3632/93/ECSC as a measure intended to cover expenditure, resulting from restructuring, on the supply of water and the removal of waste water. In order to comply with the provisions of Article 5 of that Decision, it may not exceed those costs.

The Commission has examined the information provided by Germany and the agreements between the State and the undertakings concerned and has come to the conclusions that this condition has been met.

This assistance will reduce the financial imbalance within the companies concerned and enable them to continue to operate. The aid therefore complies with the objectives set out in Article 2 (1) of Decision No 3632/93/ECSC.

VI

This Decision does not prejudice the question of whether the new German system of aid which must be introduced for coal intended for the steel industry is compatible with the Treaties and with Decision No 3632/93/ECSC. This also applies to the changes which have to be made, in accordance with Article 9 (7), to the rules on aid which are linked to agreements between coal and electricity producers.

The Federal Government must ensure that the aid granted pursuant to this Decision does not exceed, for each undertaking or production unit, the difference between production costs and foreseeable revenue.

The Commission is required, pursuant to the second indent of Article 3 (1) and Article 9 (2) and (3) of Decision No 3632/93/ECSC, to verify whether the aid granted for current production achieves the objectives set out in Articles 3 and 4 of that Decision. It must therefore be informed as to the level of payments and their allocation,

HAS ADOPTED THIS DECISION :

Article 1

Germany is hereby authorized to take the following measures in 1995 to support the coal industry :

- aid totalling DM 92,8 million for compensation between coalfields and DM 50,8 million for compensation for coal with a low volatile-matter content,
- aid totalling DM 95 million for maintaining the underground labour force ('Bergmannsprämie'),
- aid totalling DM 5 900 million in the context of the Third Electricity-from-Coal Law of 13 December 1974 in the form of revenue from the compensation fund ('Ausgleichsfonds') for 1995, corresponding to a levy rate ('Kohlepfennig') of 8,5 %,
- aid totalling DM 200 million to cover exceptional costs for the undertakings Ruhrkohle AG, Saarberg-

werke AG, Gewerkschaft Auguste Victoria, Sophia Jacoba GmbH and Preussag.

Article 2

Germany shall provide information no later than 30 September 1996 about the amounts actually paid during the 1995 production year.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 4 April 1995.

For the Commission

Christos PAPOUTSIS

Member of the Commission

COMMISSION DECISION

of 19 July 1995

authorizing France to grant aid to the coal industry for 1994

(Only the French text is authentic)

(Text with EEA relevance)

(95/465/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry⁽¹⁾, and particular Articles 2 (1) and 9 thereof,

Whereas :

I

In accordance with Article 9 (1) of Decision No 3632/93/ECSC, France notified the Commission by letter of 2 May 1994 of the financial aid which it proposed to grant to the coal industry for 1994.

France informed the Commission in its notification that it was not however in a position to communicate the activity-reduction plans referred to in Article 8 of the Decision, as the future of the French coal industry was still discussed within Charbonnages de France and by representatives from both sides of industry before being approved by the public authorities.

On 9 December 1994, France notified the Commission of the board outlines of its plan to reduce activity in its coal industry.

In its letter dated 25 April 1995, France provided supplementary information.

Pursuant to Decision No 3632/93/ECSC, the Commission :

- is to give its opinion on the conformity of the coal industry's activity-reduction plan with the general and specific objectives of the Decision,
- is to give a ruling, for 1994, on the following financial measures :
 - aid aid to reduce activity, amounting to FF 1 962 million, to cover operating losses,

— aid for research and development amounting to FF 15 million ;

— aid to cover exceptional costs amounting to FF 4 032 million.

The financial measures envisaged by France in favour of its coal industry are in line with Article 1 of Decision No 3632/93/ECSC and pursuant to Article 9 have to be approved by the Commission which is to give a ruling in particular on the basis of the general objectives and criteria laid down in Article 2 and the specific criteria set out in Articles 4, 5 and 6 of the Decision. When it studies the measures with the plans that have been communicated.

II

The coal industry activity-reduction plan notified by France has to be examined in the light of the general objectives and criteria set out in Article 2 (1) and the specific criteria and objectives laid down in Article 4 of Decision No 3632/93/ECSC.

Aware of the economic and social impact of implementing Decision No 3632/93/ECSC, the French authorities, motivated by the desire for transparency and consultation embarked on a wide general debate with all sides involved in the coalmining sector.

This consultation process made it possible to reduce a common vision of the French coal industry's future and resulted in the drawing up and signing of a national pact for coal between Charbonnages de France and the trade union organizations.

This pact provides for the progressive cessation of coalmining by 2005. The acute nature of the social and regional problems did not enable the French authorities to adhere to the deadline of 2002 provided for in Decision No 3632/93/ECSC as the deadline for the closure plan.

Staggering the closures over a 10-year period should help to reduce the particularly sensitive social and regional problems in regions which have been affected by the restructuring of the coal industry for a number of years. By staggering the closures, it will be possible to enable a maximum number of workers to benefit from measures based on age between now and the year 2005.

⁽¹⁾ OJ No L 329, 30. 12. 1993, p. 12.

The precise ways in which these measures will be deployed are still being discussed by the various signatories of the pact.

The activity-reduction plan has been broken down between the two areas which are still active nowadays, namely the Lorraine and the Centre-Midi coalfields.

The closure of the Lorraine coalfield is planned for 2005, by which time the Decision will have expired. Given the economic and social situation of the eastern Moselle region, it appears necessary to carry on mining until that date. In accordance with the specific objectives of Article 4, aid aimed at covering production costs for the period 1994-95 will be part of a plan to progressively and continuously reduce activity and bring production down from 7,2 million tonnes in 1994 to approximately 3,5 million tonnes in 2002, while about 6 000 jobs will be shed during the same period.

As for the Centre-Midi coalfield, where the social and regional problems are just as acute, production should drop from 1 million tonnes in 1994 to less than 500 000 tonnes in 2002.

Given the above considerations, the activity-reduction plans notified by France satisfy the provisions of the second indent of Article 2 (1) of the Decision, namely, they contribute to solving the social and regional problems associated with the total or partial reduction of activity production units.

In the light of the above, the plans submitted by France are in conformity with the objectives and criteria set out in the Decision.

III

The sum of FF 1 962 million which France is proposing to grant the coal industry pursuant to Article 4 of Decision No 3632/93/ECSC is aimed at partially compensating Charbonnages de France for operating losses. This aid is part of the undertaking's activity-reduction plan, total cessation of activities being planned for 2005.

Given the exceptional social and regional consequences which the reduction of activity by this undertaking will entail, the French Government, in agreement with the social partners, has decided to phase the closures up to the year 2005. In accordance with Article 3 (1) of the Decision, the Commission has checked that, for 1994, the aid notified per tonne does not exceed, for each produc-

tion unit, the difference between production costs and foreseeable revenue.

In accordance with the second indent of Article 2 (1), this aid contributes to solving the social and regional problems created by total or partial reductions in the activity of production units.

In the light of the above and on the basis of information provided by France, the aid planned for 1994 is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

IV

The sum of FF 15 million which France is planning to grant Charbonnages de France pursuant to Article 6 of the Decision is aimed at supporting the undertaking's research and development efforts. This aid, which represents 16 % of all expenditure earmarked by the undertaking for mining research and development, is focused mainly on pursuing an improvement in performance both in face workings and drivages. It also relates to the improvement of safety and working conditions (especially research activities in the ergonomic field, ventilation and fire damp safety), the extension of remote control, monitoring and data transmission methods, and environment. Where the utilization of coal is concerned, there are projects regarding the behaviour of coal, upgrading of ash, the analysis of gaseous pollutants and the development of fluidized bed combustion.

This aid, which contributes to an improvement of mining technology and hence to a reduction in production costs, enables the aid to be degressive to a certain extent. In its examination of the aid, the Commission made sure that the aid respected the Community rules on State aid for research and development.

In the light of the above and on the basis of the information provided by France, the aid planned for 1994 is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

V

The aid of FF 4 032 million which France is proposing to grant its coal industry is aimed at covering exceptional costs arising from the modernization, rationalization and restructuring of the coal industry which are not related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid covers costs which are explicitly mentioned in the Annex to the Decision, namely:

- FF 636 million towards the costs of paying social-welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age,
- FF 252 million as exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalization,
- FF 64 million as payment towards residual costs resulting from administrative, legal or tax provisions,
- FF 147 million towards additional work resulting from restructuring,
- FF 22 million towards mining damage caused by pits previously by service,
- FF 44 million towards exceptional intrinsic depreciation resulting from the restructuring of the industry,
- FF 2 867 million towards the increase in the contributions, outside the statutory system, to cover social security costs as a result of the drop, following restructuring, in the number of contributors.

This aid may be regarded as compatible with the common market if the total amount does not exceed costs. Having checked the data communicated, the Commission concludes that this condition has been fulfilled. Given the above and on the basis of information provided by France, the aid planned for 1994 is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

In accordance with the second indent of Article 3 (1) and with Article 9 (2) and (3) of Decision No 3632/93/ECSC, the Commission has to check that the aid authorized for

current production corresponds only to the purposes stipulated in Articles 4 and 6 of the Decision. To this end, it must be informed of the amounts of such payments and the way in which they are broken down,

HAS ADOPTED THIS DECISION:

Article 1

France is authorized to apply the following measures in favour of its coal industry for the year 1994:

- aid for the reduction of activity, amounting to FF 1 962 million, aimed at covering operating losses,
- aid for research and development amounting to FF 15 million,
- aid to cover exceptional costs amounting to FF 4 032 million.

Article 2

France shall communicate the amounts of aid actually paid under this Decision for the year 1994 by 30 September 1995 at the latest.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 19 July 1995.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

COMMISSION DECISION

of 26 July 1995

concerning aid granted by the Flemish Region to the Belgian airline Vlaamse Luchttransportmaatschappij NV

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(95/466/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Agreement on the European Economic Area, and in particular Article 62 (1) (a) thereof,

Having given notice to the parties concerned to submit their comments, as it is required to do by those Articles, and having regard to those comments,

Whereas :

THE FACTS

I

On 25 March 1994 Cityflyer Express Ltd ('Cityflyer') lodged a complaint with the Commission against a State aid measure; Cityflyer alleged that the Flemish Region had granted or was preparing to grant State aid to the airline Vlaamse Luchttransportmaatschappij NV ('VLM'), in the form of an interest-free loan of Bfrs 20 million. The Commission brought the allegation to the attention of the Belgian authorities, by letter dated 25 May 1994; in order to enable it to examine the transaction in the light of the State aid rules in Articles 92 and 93 of the Treaty, it asked them to answer the following questions:

- What is the content of the documents (*statuten*) setting up Vlaamse Luchttransportmaatschappij NV. Who holds the equity in the company?
- On what terms (amount, rate of interest, duration, etc.) has the Flemish Region granted or does it propose to grant a loan to Vlaamse Luchttransportmaatschappij NV? If the transaction has already taken place, please supply a copy of the loan contract and of any documents annexed to it (other conditions, decisions of the Flemish Region, etc.).

No reply was received within the one month allowed, and on 14 July 1994 the Commission sent the Belgian authorities a reminder.

By letter of 3 August 1994 the Belgian authorities sent the Commission answers to the questions set out above. In reply to the question regarding the founding documents, they supplied a copy of VLM's *statuten* or constitution. It appears that VLM is a public limited company set up under Belgian law, with its registered office at Van Tichelenlei 49, 2610 Wommelgem, Belgium. It was formed on 21 February 1992, for an unlimited duration, with an initial capital of Bfrs 10 million. The capital has since been increased on several occasions; by the end of 1993 it stood at Bfrs 75 million. It is divided between nine shareholders, made up of five companies, governed by private law, and four individuals. It would thus appear to be an entirely private company. Its objects are stated to be 'the purchase, sale, exchange, leasing, operation, repair and maintenance of aircraft, on its own account and for others, in Belgium and abroad. The operation of aircraft on scheduled and non-scheduled services'.

Turning to the terms of the loan, the Belgian authorities' answer was as follows:

'Amount: Bfrs 20 million. Rate of interest: 0 %. Schedule of repayments: two, three, four, five and six years after payment of the loan, instalments of Bfrs 4 million each'.

No other documents were supplied; in particular, there was no copy of the loan contract. It should be noted that the transaction had taken place without the Commission's being informed in advance, as is required by Article 93 (3) of the Treaty.

On 16 November 1994 the Commission decided to initiate proceedings pursuant to Article 93 (2) of the Treaty. The misgivings which motivated this step sprang from two considerations: an interest-free loan certainly constitutes State aid within the scope of Article 92 of the Treaty and Article 61 of the EEA Agreement, and on the face of it the loan in question here did not appear to qualify for any of the exemptions pursuant to Article 92 (2) and (3) and Article 61 (2) and (3).

On 6 December 1994 the Commission wrote to the Belgian authorities informing them that it was initiating proceedings, and giving them notice to submit their observations. This letter was published in the *Official Journal of the European Communities*, with an invitation to other Member States and interested parties to submit observations in accordance with Article 93 (2) (1).

II

Two interested parties, the airlines British Airways and Cityflyer, submitted observations following the publication of the notice in the *Official Journal of the European Communities*.

Both argued that the loan constituted State aid within the scope of Article 92 (1). Cityflyer enclosed copies of VLM's balance sheets and profit-and-loss accounts for 1992 and 1993, and contended that no rational private investor would have granted VLM such a loan, especially given its losses in 1993. According to both airlines the aid distorted competition on the routes operated by VLM, in particular the Antwerp-London route, where VLM was in competition with Cityflyer. They also submitted that VLM did not appear to have given any special guarantee of repayment of the loan, in the form of a security, mortgage or the like, and that the amount of aid involved was therefore not the total interest which VLM would have had to pay if the loan had been granted by an investor operating under normal market conditions, but rather the full amount of the loan itself.

British Airways and Cityflyer accordingly asked the Commission to find that the aid was incompatible with the common market. British Airways argued the aid did not qualify for any of the exemptions provided for in Article 92 (2) and (3). Cityflyer further asked the Commission to order the recovery of the aid.

The Commission wrote to the Belgian authorities on 1 February 1995 (in French) and 10 February 1995 (in Dutch), providing full details of the observations submitted by British Airways and Cityflyer, and suggesting that they, in turn, might wish to reply to those observations.

(1) OJ No C 359, 16. 12. 1994, p. 2.

III

By letter dated 23 January 1995 Belgium submitted its observations in response to the decision to initiate proceedings and to the Commission's letter of 6 December 1994.

First, Belgium contended that the loan did not constitute State aid pursuant to Article 92 (1), because it did not affect trade to an extent contrary to the common interest, and did not distort competition between Community airlines. The loan had indeed helped VLM to set up the connection between Antwerp and London (London City Airport), but that route constituted a market separate from the Antwerp-London (Heathrow) and Antwerp-London (Gatwick) routes, which were operated by Sabena and Cityflyer respectively. Belgium also argued that this was not restructuring aid intended to cover operating losses, but indirect aid to the initial investment made by a new regional airline. The measure was in reality a form of capital injection which satisfied the test of the national investor in a market economy: it did not bring a return in the form of interest or dividends, but it brought the Flemish Region indirect benefits in terms of employment and the improvement in the situation of business through the establishment of a direct link between Antwerp and London City Airport. The benefits exceeded the return a private investor could expect from a capital investment, and likewise exceed the benefit which might have been obtained from interest paid by VLM.

Secondly, Belgium argued that if the loan did contain an aid component the aid could be exempted, for two reasons. It was compatible with the common market pursuant to Article 92 (3) (c), being intended to facilitate the development of certain economic activities: that exemption necessarily covered investment in new airlines in a competitive and highly capital-intensive industry. Moreover, the aid involved was limited, being below the ceiling which the Commission had set for aid to small and medium-sized enterprises.

IV

On 2 May 1995 the Commission wrote to the Belgian authorities to ask them once again for a copy of the loan contract, and seeking further details of any guarantee given to the lender, the Flemish Region, by the borrower, VLM. It also asked the Belgian authorities for details of

VLM's turnover in 1992, 1993 and 1994, and for copies of its balance sheets and profit-and-loss accounts for the same years. No reply was received within the time allowed, and on 13 June the Commission sent the Belgian authorities a reminder.

Belgium answered the Commission's request for information in a letter dated 16 June. On the question of guarantees it had this to say:

'During the currency of the contract the company must obtain the Flemish Region's prior consent in order to transfer or mortgage its movable and immovable property or to transfer certain stated assets.

The same condition applies to any change in the structure of shareholdings or reduction of the capital.

If these requirements are infringed the contract may be terminated immediately and immediately repayment of the advance demanded.'

The letter also supplied the draft of a submission putting forward the following main arguments:

- The transaction did not constitute State aid: the test of the rational investor in a market economy was satisfied, given the small size of VLM, the small scale of the investment and hence of the risk, and the company's good prospects of profitability.
- Even supposing that the transaction did constitute State aid, it was compatible with the common market, because it would enable a new entrant to compete against the established large companies in a market which had become highly competitive; because, owing to its small scale, it would not affect trade to an extent contrary to the common interest; and because it was in the interests of consumers and of the region. Lastly, it had to be allowed the benefit of the *de minimis* rule.

By letter of 14 July 1995 the Belgian authorities also sent copies of the balance sheets and profit-and-loss accounts to the Commission, as requested. In addition, on 24 July 1995 they supplied a copy of the loan contract. It was found to be dated 17 December 1993 and to stipulate that

the money was to be made available to the beneficiary within 60 days thereafter.

LEGAL ASSESSMENT

V

According to Article 92 (1) of the Treaty and Article 61 (1) of the EEA Agreement, any aid granted by a State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States or Contracting Parties, be incompatible with the common market and the functioning of the Agreement.

The loan of Bfrs 20 million which the Flemish Region has granted to VLM constitutes 'aid' within the meaning of these provisions.

First, that the transaction is public in character is shown by the fact that the loan was granted by a regional authority, the Flemish Region. The Court of Justice has held that State aid includes all aid granted by central, regional or local authorities in a Member State, 'or by public or private bodies established or appointed by it to administer the aid' ⁽¹⁾.

Secondly, the loan does distort competition, and does affect trade between Member States: it benefits a single company, whose business — air transport — extends over several Member States and potentially over the entire EEA, and which by its nature directly relates to trade. This is particularly so since the entry into force of the third air transport package, on 1 January 1993, which completed the process of liberalization and greatly increased the scope for competition. VLM is a Community airline company holding an operating licence granted in accordance with Council Regulation (EEC) No 2407/92 ⁽²⁾. Pursuant to Article 3 of Council Regulation (EEC) No 2408/92 ⁽³⁾ and Article 5 of Council Regulation (EEC) No 2409/92 ⁽⁴⁾, the Member State or Member States, concerned must, except where otherwise expressly provided in the same Regulations, permit VLM to exercise traffic rights on routes within the Community and setting its fares freely.

⁽¹⁾ Case 78/76, Steinike und Weinlig, [1977] ECR, p. 596, at paragraph 21.

⁽²⁾ OJ No L 240, 24. 8. 1992, p. 1.

⁽³⁾ OJ No L 240, 24. 8. 1992, p. 8.

⁽⁴⁾ OJ No L 240, 24. 8. 1992, p. 15.

In its judgment of 21 March 1991 in Case C-303/88, *Italy v. Commission* ⁽¹⁾, the Court of Justice held that 'aid may be such as to affect trade between the Member States and distort competition where the recipient undertaking competes with producers in other Member States, even if it does not itself export its products. Where a Member State grants aid to an undertaking, domestic production may thereby be maintained or increased with the result that undertakings established in other Member States have significantly less chance of exporting their products to the market in that Member State. Furthermore, even aid of a relatively small amount is liable to affect trade between Member States where there is strong competition in the sector in question (judgment in Case 259/85, *France v. Commission* [1987] ECR 4393, at paragraph 24)'. In the present case, given the intense competition in the liberalized Community air transport business, the fact that VLM may be the only airline operating on the Antwerp-London route into and out of London City Airport is irrelevant to the Commission's assessment: the aid received will in any event reduce the chances of competitors, actual or potential, who wish to penetrate the market in that particular route, and will thus distort competition to that extent at least. Nor is there anything to prevent VLM from making use of the assistance to launch operations on other routes. As for the Belgian authorities' claim that the transaction does not adversely affect the common interest, it seems clear that that argument is not relevant at this stage in the assessment, where the object is to ascertain whether the aid is within the scope of Article 92 (1) of the Treaty and Article 61 of the EEA Agreement.

Thirdly, there can be no doubt that there is an aid component: no private investor or bank operating under normal market conditions would grant an interest-free loan to a company in which it had no holding and which was in financial difficulties less than two years after its information. VLM's balance sheets and profit-and-loss accounts show that it made an operating loss of Bfrs 13 million in 1993, its first full year in operation. Its net losses in that year amounted to Bfrs 11,52 million, equal to 15 % of the equity. Nor can the Commission accept the Belgian authorities' argument that the benefit to the economy of the Flemish Region means that the test of the rational investor in a market economy is satisfied. The Flemish authorities, as public authorities, may wish to take account of the advantage to the Flemish economy of a direct connection between Antwerp and London City Airport; but that has nothing whatsoever to do with the

behaviour of a rational investor operating in a market economy.

Turning to the amount of the aid, the Commission, in its communication entitled 'Application of Articles 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State aids in the aviation sector' ⁽²⁾, considers that the aid component in such cases amounts to 'the difference between the rate that the airline would pay under normal market conditions and that actually paid. In the extreme case where an unsecured loan is made to a company which under normal circumstances would be unable to obtain financing, the loan effectively equates to a grant and the Commission would evaluate it as such'. That VLM should have made losses over its first year of operation, which were fairly moderate all things considered, is not unusual in air transport, given the special features of the business. In early 1994, such losses were not such as to prevent access to the financial market, especially as 1993 had been a particularly difficult year in civil aviation, and prospects for 1994 were brighter. VLM's losses did in fact fall to Bfrs 8,6 million in 1994, and its activities continued to develop. Furthermore, the lender has in fact a form of guarantee for its claim, because in return for the loan the Flemish Region is allowed to intervene in the running of the company: its consent must be obtained before certain assets can be transferred or mortgaged, and before any reduction in the capital of the company or any change in the structure of the shareholdings. It should be noted that by late 1993 VLM held tangible assets worth Bfrs 7,3 million and financial resources worth Bfrs 16 million. Furthermore, in 1994 a further increase of Bfrs 25 million in the company's equity capital has now brought the total up to Bfrs 100 million. It is clear from Articles 6 and 7 of the loan contract, first, that the transaction may be rescinded immediately should VLM fail to comply with the terms and conditions agreed in the contract, and secondly, that VLM is subject, for the duration thereof, to inspection by the Inspectorate of the Ministry of Economic Affairs of the Flemish Community and also by the Flemish Committee for the Supervision of Business Management (Vlaamse Commissie voor Preventief Bedrijfsbeleid). The Commission accordingly takes the view that the amount of aid is equal to the interest which VLM would have had to pay in normal market conditions.

For a six-year loan, the base rate in Belgium at the beginning of 1994 (Belgian State debt, entailing no risk) was 7,3 %. A risk premium would usually be added to this base rate, reflecting the characteristics of the company and the industry and the solidity of the guarantee offered for the claim. Inquiries made by the Commission in the

⁽¹⁾ [1991] ECR I, p. 1433, point 27.

⁽²⁾ OJ No C 350, 10.12.1994, p. 5, point 32.

banking sector indicate that in the present case the risk premium could be estimated at 100 basic points, or 1 %, if the guarantee accepted by the Flemish Region gave it every assurance of recovering its claim. But that is not the case, because the claim is not secured against movable or immovable property, as it would be if there were a mortgage for example. The risk premium ought therefore to be estimated at 200 basic points, or 2 %. This gives a normal commercial rate of interest of 9,3 %. The amount of aid is consequently the sum of the interest payments which would be arrived at by applying this rate to the sum borrowed.

VI

The aid was not granted under any approved scheme of assistance, and ought to have been notified to the Commission in accordance with Article 93 (3) of the Treaty. By omitting to notify the measures in advance, that is to say before putting it into effect, Belgium failed to fulfil the obligations imposed on it by Article 93 (3). The aid was accordingly granted unlawfully.

VII

Let us now consider the compatibility of the aid with the common market pursuant to Article 92 (2) and (3) of the Treaty and Article 61 (2) and (3) of the EEA Agreement.

Points (a), (b) and (c) of Article 92 (2) and Article 61 (2) do not apply: the aid is not aid having a social character, granted to individual consumers, nor aid to make good the damage caused by natural disasters or exceptional occurrences, nor aid granted to the economy of certain areas in Germany.

Article 92 (3) and Article 61 (3) list forms of aid which may be considered to be compatible with the common market. The assessment has to be made in the context of the Community, and not of a single Member State. The exemptions provided for apply only where the Commission is satisfied that the unaided effects of market forces would not be enough to incite the recipient to undertake some action conducive to one of the objectives for which the exemptions exist.

In order to safeguard the proper operation of the common market, and the principles enshrined in Article

3 (g) of the Treaty, the exemptions from the prohibition in Article 92 (1) of the Treaty which are provided for in Article 93 (3) must be interpreted strictly in the assessment of any aid scheme or individual aid measure. Given the more intense competition which has come with the gradual liberalization of air transport as a result of the third air-transport package, the Commission must pursue a policy of rigorous control of State aid in order to prevent it from producing effects contrary to the common interest.

Article 92 (3) (a) and (c) of the Treaty and Article 61 (3) (a) and (c) of the EEA Agreement allow the exemption of aid to promote or facilitate the development of certain areas. The loan granted to VLM by the Flemish Region does not qualify for exemption under these provisions, because the arrondissement of Antwerp does not satisfy the tests of eligibility for regional aid, and because the loan is a one-off measure in respect of a single enterprise, rather than a part of a part of a general scheme for the benefit of all Flemish undertakings. Indeed, the Belgian authorities have not invoked these provisions.

Article 92 (3) (b) and Article 61 (3) (b) do not apply either, as the aid is not designed to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State.

The Belgian authorities have relied on Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the EEA Agreement which allows the exemption of 'aid to facilitate the development of certain economic activities'. They contend that the loan must be regarded as facilitating the development of economic activities, because it benefits a new airline in a competitive and highly capital-intensive industry. The Commission cannot accept this argument. It is prepared to allow this exemption only in favour of aid to enterprises which are to be restructured⁽¹⁾, and even then there are a number of conditions which must be met, the main one being that there must be a restructuring programme which the Commission has approved. In this case the Belgian authorities have themselves said that the loan is not intended to assist restructuring; and they have made no reference to a restructuring programme. Thus the exemption provided for in Article 92 (3) (c) and Article 61 (3) (c) is in any event inapplicable here.

⁽¹⁾ See footnote 7, section V of that communication.

The Belgian authorities have also argued that the amount of the aid is below the ceiling set by the Commission for aid to small and medium-sized undertakings. Here they are doubtless referring to the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁾, which set a *de minimis* figure of ECU 50 000. But those guidelines specify that 'The *de minimis* facility is not available in sectors subject to special Community rules on State aid'. Air transport is indeed subject to special Community rules on State aid. Those special rules also set a *de minimis* figure, but only for procedural purposes, in order to determine whether a measure qualifies for an accelerated clearance procedure: the figure there has no bearing on whether a measure constitutes State aid or whether, if it does so, it qualifies for exemption. The Belgian authorities are therefore wrong in claiming that a *de minimis* rule might apply here.

Thus the measure does not fall within the scope of any of the exemptions provided for in Article 92 (2) and (3) and Article 61 (2) and (3). Belgium must accordingly be required to put an end to it.

VIII

If aid is not compatible with the common market, Article 93 (2) of the Treaty empowers the Commission to require the Member State to order its recovery, as the Court of Justice has confirmed in Case 70/72, *Commission v. Germany*⁽²⁾ and Case 310/85, *Deufil v. Commission*⁽³⁾. The Belgian authorities should accordingly be required to recover the aid unlawfully granted to VLM, that is to say interest chargeable at a rate of 9,3 % on the amount of the loan, within two months. The aid is to be recovered in accordance with national law, including the rules concerning interest due for late payment of amounts owing to the government, the interest to run from the date of the award of the aid.

This measure is necessary in order to restore the status quo by withdrawing all the financial benefit which has unduly accrued to the recipient of the unlawful aid since the aid was granted,

HAS ADOPTED THIS DECISION:

Article 1

The interest-free loan of Bfrs 20 million granted by the Flemish Region to the airline Vlaamse Luchttransport-

maatschappij NV ('VLM') in 1994 includes an aid component which is unlawful because it was granted in breach of the requirements of Article 93 (3) of the EC Treaty. The aid component is incompatible with the common market for the purposes of Article 92 of the Treaty and Article 61 of the EEA Agreement.

Article 2

Belgium is hereby required to order that interest at 9,3 % is henceforth payable on the loan of Bfrs 20 million granted to VLM by Flemish Region.

Article 3

Belgium is hereby required to order that the aid component, equal to interest charged at 9,3 % on the loan of Bfrs 20 million granted to VLM by the Flemish Region since the date on which the loan was granted, be repaid within two months of notification of this Decision. The money is to be repaid in accordance with Belgian law, including the provisions concerning interest due for late payment of amounts owing to the State or public authorities. The rate of such interest is to be the reference rate used in the evaluation of regional aid measures, the interest running from the date on which the aid was awarded.

Article 4

Belgium shall inform the Commission within months of the date of notification of this Decision of the steps it has taken to comply with it.

Article 5

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 26 July 1995.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ No C 368, 23.12.1994, p. 12, points 2.3 and 4.1.

⁽²⁾ [1973] ECR, p. 813.

⁽³⁾ [1987] ECR, p. 901.

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 2536/95 of 30 October 1995 on the supply of vegetable oil as food aid**

(Official Journal of the European Communities No L 260 of 31 October 1995)

Page 9, Annex II, third column 'Partial quantities' for A1 :

for: 'A1 : 75',

read: 'A1 : 60'.
