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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 23/97
of 20 December 1996
on statistics on the level and structure of labour costs**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the draft Regulation submitted by the Commission,

Whereas, in order to carry out the tasks entrusted to it, the Commission must be kept informed of the level, trend and structure of employers' labour costs and employees' earnings in the Member States;

Whereas the development of the Community and the operation of the single market increase the need for comparable data on the level, trend and structure of employers' labour costs and employees' earnings, particularly as a means of analysing growth, competitiveness, employment, the progress of economic and social cohesion and for establishing reliable comparisons between the Member States and the regions of the Community;

Whereas the best method of assessing the situation as regards the level, trend and structure of employers' labour costs and employees' earnings is to produce specific statistics on labour costs, as was most recently done in 1993 pursuant to Council Regulation (EEC) No 3949/92 of 21 December 1992 relating to the organization of a survey of labour costs in industry and the services sector⁽¹⁾ referring to accounting data of 1992;

Whereas, because of the variations in the position and composition of expenditure by enterprises on wages and related employers' contributions, new Community statistics need to be produced based on accounting data for 1996 in order to bring up to date the results of the previous survey;

Whereas, pursuant to Regulation (EC) No 2223/96⁽²⁾ the European system of national and regional accounts in the European Community (ESA-95) is the term of reference

for standards, definitions and accounting practices in the Member States in order to meet the Community needs; whereas this necessitates the establishment of complete, reliable and comparable statistical sources at national and regional level; whereas the levels of breakdown to be applied to the variables are limited to what is necessary to ensure comparability with previous surveys and compatibility with national accounts requirements;

Whereas the statistical information available in each Member State does not provide a valid basis for comparisons, in particular because of the differences between laws, regulations and administrative practices of the Member States; whereas Community statistics must therefore be produced and the results processed on the basis of common definitions and harmonized methodologies;

Whereas, in accordance with the principle of subsidiarity, the creation of common statistical standards enabling harmonized information to be produced is a proposed action the objectives of which can, by reason of its scale or effects be better achieved by the Community; whereas these standards will be implemented in each Member State on the authority of the agencies and institutions appointed to compile official statistics;

Whereas, pursuant to Council Decision No 93/464/EEC of 22 July 1993 on the framework programme for priority actions in the field of statistical information 1993 to 1997⁽³⁾, the production of Community statistics on labour costs is one of the priority actions of the statistical programme 1993 to 1997;

Whereas it may be acceptable for the countries which have administrative sources or other appropriate statistical sources to use these or perhaps link them up with a simplified questionnaire if this method is compatible with the definitions and methods approved and corresponds to the whole set of variables required;

⁽¹⁾ OJ No L 404, 31. 12. 1992, p. 7.

⁽²⁾ OJ No L 310, 30. 11. 1996, p. 1.

⁽³⁾ OJ No L 219, 28. 8. 1993, p. 1.

Whereas it is necessary to simplify the administrative procedures for enterprises, particularly smaller and medium-sized enterprises, including the promotion of new technologies for data collection and compilation; whereas it may still be necessary to collect directly from enterprises the data necessary to compile labour cost statistics, using methods that are exhaustive, reliable and up to date, without giving rise for the parties concerned, in particular for small and medium-sized enterprises, to a burden out of proportion to the results which the users of the said statistics can reasonably expect;

Whereas it seems appropriate to make provisions for exceptions for certain Member States, in order to take account of particular technical difficulties encountered by such States on the collection of certain types of information, provided that the quality of the statistical information is not affected;

Whereas the Committee on the Statistical Programmes of the European Communities established by Decision 89/382/EEC, Euratom⁽¹⁾, consulted by the Commission in accordance with Article 3 of the aforesaid Decision, has declared itself in favour of the present proposal,

HAS ADOPTED THIS REGULATION:

Article 1

General provisions

The Member States and the Commission, within their respective fields of competencies, shall produce Community statistics on the level and structure of employers' labour costs in the area of economic activities defined in Article 3.

Article 2

Reference period

The statistics shall be produced on the basis of statistical information for the financial year of 1996, subject to the special provisions mentioned in the Annex to this Regulation.

Article 3

Scope

The statistics shall cover all economic activities defined in sections C (Mining and quarrying), D (Manufacturing), E (Electricity, gas and water supply), F (Construction), G (Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods), H (Hotels and restaurants), group 63.3 (Activities of travel agencies and tour operators; tourist assistance activities

not elsewhere covered) of section I (Transport, storage and communications), divisions 65 (Financial intermediation, except insurance and pension funding) and 66 (Insurance and pension funding, except compulsory social security) of section J (Financial intermediation) and section K (Real estate, renting and business activities) of the general industrial classification of economic activities in the European Community, hereinafter referred to as 'NACE Rev. 1' established by Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community⁽²⁾, subject to the special provisions mentioned in the Annex to this Regulation.

Article 4

Information requirements

The compilation of statistics on labour costs shall be based on any of the statistical units defined in Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community⁽³⁾ and shall provide information referring to local units classified by their own principal activity, by region at least at level 1 of the nomenclature of territorial units for statistics (NUTS 1), established by the Commission and by size class in terms of employment of the enterprise on which the local units are dependent. Information is required only for enterprises with at least 10 persons occupied.

Article 5

Information required

Data shall be collected on:

1. total labour costs, including: compensation of employees; vocational training costs; other expenditure, taxes and subsidies directly related to labour costs;
 2. the total staff employed
- and
3. working time,

subject to the special provisions mentioned in the Annex to this Regulation.

Article 6

Data collection

1. A survey shall be carried out through the appropriate statistical services of the Member States which shall draw up the appropriate methods for collecting the information.

⁽²⁾ OJ No L 293, 24. 10. 1990, p. 1. Regulation as amended by Regulation (EEC) No 761/93 (OJ No L 83, 3. 4. 1993, p. 1).

⁽³⁾ OJ No L 76, 30. 3. 1993, p. 1. Regulation as amended by the 1994 Act of Accession.

⁽¹⁾ OJ No L 181, 28. 6. 1989, p. 47.

2. Employers and other persons required to supply information shall reply to the questions truthfully, completely and within the time limits set. The Member States shall take appropriate measures to avoid any infringement of the obligation to supply the information referred to in Article 5.

3. The survey need not be carried out if the Member States have information from other appropriate sources or Member States are able to produce estimates of necessary data using statistical inference methods where some or all of the characteristics have not been observed for all the units for which the statistics are to be compiled. The information from other appropriate sources or the estimates of necessary data can only be used if they are at least equivalent to survey requirements as regards accuracy, quality and timeliness.

4. The burden on enterprises, particularly on small and medium-sized enterprises, and representativeness requirements according to Article 7 shall be taken into account by the Member States in their choice and combination of the sources and the use of estimates referred to in paragraph 3.

5. The Member States shall transmit to the Commission at its request all information, particularly concerning methodologies, needed for the application of this Regulation, and in particular, in cases where data are derived from administrative sources, all the information necessary for the evaluation of their reliability and comparability.

Article 7

Representativeness

The reliability and comparability on a high quality level shall be attained by the use of sample sizes allowing that the relative standard error for the variable 'hourly labour costs' by division of NACE Rev. 1 does not exceed 3 %.

Article 8

Processing of results

The statistical services of the Member States shall process the replies to the questions referred to in Article 6 (2) or the information from other sources, as referred to in Article 6 (3), so as to obtain comparable results.

Article 9

Transmission of results

The results shall be transmitted within a period of 18 months from the end of the calendar year corresponding to the reference period, including confidential data, in accordance with Council Regulation (Euratom, EEC) No 1588/90 of 15 June 1990 on the transmission of data

subject to statistical confidentiality to the Statistical Office of the European Communities⁽¹⁾.

Article 10

Arrangements for implementation

The arrangements for implementing this Regulation, in particular:

- definitions to be used,
- the levels of breakdown to be applied to the variables,
- guidelines on accuracy and the aspects of quality,
- the appropriate forms of the transmitted variables and
- the results to be transmitted

shall be laid down in accordance with the procedure set out in Article 11.

Article 11

Procedure

The Commission shall be assisted by the Committee on the Statistical Programmes of the European Communities, hereinafter referred to as 'the Committee'.

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 for a period of three months from the date of communication.
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous indent.

Article 12

Entry into force

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

⁽¹⁾ OJ No L 151, 15. 6. 1990, p. 1.

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

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

*ANNEX**SPECIAL PROVISIONS***I. Exceptions to the reference period (Article 2)**

For Sweden: the 1997 financial year on the condition of providing estimates for the 1996 reference year.

II. Exceptions to the scope of the survey (Article 3)

1. For all the Member States: class 65.11.
2. For Germany: section K, group 63.3 of section I.
3. For Greece: section K.
4. For France and Portugal: division 73 of section K.
5. For Ireland: section H.
6. For Austria: sections F, G, H, class 63.3 of section I.

III. More detailed information (Article 5)

Member States may provide for the supply of more detailed information, notably by making a distinction between manual and non-manual workers or by covering units with fewer than 10 employees.

In order to take account of the particular circumstances regarding the aggregation of the results at national level, provided that the quality of the statistical information is not affected, Germany may compile distinct statistics for the Federal Republic of Germany, including West Berlin, as constituted prior to 3 October 1990, and for the new *Länder*, including East Berlin. The provisions of Article 7 on representativeness shall be applied separately on each aggregate.

COUNCIL REGULATION (EC) No 24/97**of 20 December 1996****repealing Regulation (EEC) No 1729/76 concerning the communication of
information on the state of the Community's energy supplies**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular, Article 213 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community and, in particular, Article 187 thereof,

Whereas Regulation (EEC) No 1729/76 ⁽¹⁾ was adopted in order to supply the Commission with the information needed to assess the energy supply situation in each Member State;

Whereas the said Regulation provided a means of gauging how far the energy policy objectives set by the Council resolutions of 17 December 1974 ⁽²⁾ and 13 February 1975 ⁽³⁾ had been met;

Whereas the information collected was based on the conventions applied by the Statistical Office at the time

on the nomenclature of energy products, the general framework, the definitions and field covered by each line of the balance sheet;

Whereas the aforementioned resolutions have expired and the said conventions are no longer applied by the Statistical Office;

Whereas implementation of Regulation (EEC) No 1729/76 has been suspended for over 10 years, by informal agreement between the Commission and the Member States;

Whereas the Commission has other, more efficient means of obtaining information on the state of the Community's energy supplies,

HAS ADOPTED THIS REGULATION:

Sole Article

Regulation (EEC) No 1729/76 is hereby repealed.

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

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

⁽¹⁾ OJ No L 198, 23. 7. 1976, p. 1.

⁽²⁾ OJ No C 153, 9. 7. 1975, pp. 2 and 5.

⁽³⁾ OJ No C 153, 9. 7. 1975, p. 6.

COUNCIL REGULATION (EC) No 25/97

of 20 December 1996

amending for the fourth time Regulation (EC) No 3699/93 laying down criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and for processing and marketing of its products

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the Financial Instruments for Fisheries Guidance⁽¹⁾, and in particular Article 6 thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Having regard to the opinion of the Economic and Social Committee⁽⁴⁾,

Whereas by Regulation (EC) No 3699/93⁽⁵⁾, the Council lays down criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and for processing and marketing of its products;

Whereas promotion of products or forms of processing should be encouraged in those cases where official recognition of origin with reference to a specified geographical zone is granted pursuant to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽⁶⁾; whereas the use of geographical references can be permitted only if such official recognition of origin has been granted;

Whereas Article 7b of Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products⁽⁷⁾ provides for financial aid to producer organizations implementing a plan to improve the quality and marketing of their products; whereas for reasons of legal and budgetary consistency Article 13 of Regulation (EC) No 3699/93 should refer to this aid;

Whereas the agrimonetary rate for the ecu is not being used for aid from the Financial Instrument for Fisheries Guidance, as may be implied from the premium scales shown in Annex IV to Regulation (EC) No 3699/93; whereas however the provisions on use of the agrimonetary ecu of 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⁽⁸⁾, apply as a general rule to all action pursuant to Article 43 of the Treaty; whereas for clarity it should therefore be specified in Regulation (EC) No 3699/93 that the budgetary rate for the ecu is the only one applicable for its purposes from the date of its entry into force on 1 January 1994,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3699/93 is hereby amended as follows:

1. The following shall be added to the last paragraph of Article 12:

‘... except in specific cases where official recognition of origin with reference to a specified geographical zone for a product or process is granted pursuant to Regulation (EEC) No 2081/92^(*). The reference may be used only from the date on which the name has been entered on the register provided for in Article 6 (3) of Regulation (EEC) No 2081/92.

(*) OJ No L 208, 27. 7. 1992, p. 1.’

2. In the second paragraph of Article 13 the words ‘of Article 7’ shall be replaced by ‘of Articles 7 and 7b’.
3. The following paragraph shall be added to Article 16:

‘1a. Amounts in ecus set by this Regulation shall be converted into national currency at the rate published in the *Official Journal of the European Communities*, series C.

The conversion shall be made at the rate applicable on 1 January of the year of the Member State’s decision to grant the premium or aid.’

⁽¹⁾ OJ No L 193, 31. 7. 1993, p. 1.

⁽²⁾ OJ No C 178, 21. 6. 1996, p. 20.

⁽³⁾ OJ No C 347, 18. 11. 1996.

⁽⁴⁾ Opinion delivered on 26 October 1996 (not yet published in the *Official Journal*).

⁽⁵⁾ OJ No L 346, 31. 12. 1993, p. 1. Regulation as last amended by Regulation (EC) No 965/96 (OJ No L 131, 1. 6. 1996, p. 1).

⁽⁶⁾ OJ No L 208, 27. 7. 1992, p. 1. Regulation as last amended by the 1994 Act of Accession.

⁽⁷⁾ OJ No L 388, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 3318/94 (OJ No L 350, 31. 12. 1994, p. 15).

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 150/95 (OJ No L 22, 31. 1. 1995, p. 1).

Article 2

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

However, the first subparagraph of the additional paragraph 1a to Article 16 of Regulation (EC) No 3699/93 referred to in point 3 of Article 1 of this Regulation shall apply with effect from 1 January 1994.

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

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

COMMISSION REGULATION (EC) No 26/97
of 9 January 1997
amending Regulation (EC) No 2190/96 as regards systems A1 and B for issuing
export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽¹⁾, and in particular Article 35 (8) and (11) thereof,

Whereas Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for applying Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables⁽²⁾ provides for the issuing of export licences under systems A1, A2 and B;

Whereas, as a result of the experience gained in using system A2, the refund rates should be differentiated by destination zone for all systems B; whereas, therefore, the zone in question should be mentioned in licence applications and licences under system B; whereas that information should also be forwarded to the Commission in connection with requests for A1 and B licences;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2190/96 is hereby amended as follows:

1. The following is inserted after Article 5 (2):

‘2a. The provisions of the first subparagraph of Article 20 (3) of Regulation (EEC) No 3665/87 shall apply to B licences. The destinations or groups of destinations shall be indicated in box 7 of licence applications and licences.’

2. Annexes I and IV are replaced by Annexes I and II respectively to this Regulation.

Article 2

This Regulation shall enter into force on 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ No L 292, 15. 11. 1996, p. 12.

ANNEX I

ANNEX I

Form for the forwarding of information established pursuant to Article 2 (2) of Regulation (EC) No 2190/96

A1 licences

Member State:

Date of lodging of applications:

Product (name of product)	Destinations or groups of destinations	Quantities applied for	
		Food aid (GATT) (kg)	Other (kg)

ANNEX II

ANNEX IV

Form for the forwarding of information established pursuant to Article 5 (4) of Regulation (EC) No 2190/96

B licences

Member State:

Date of application for licences⁽¹⁾:

Product (name of product)	Destinations or groups of destinations	Licence applications		Applications withdrawn		Quantities not utilized	
		Food aid (GATT) (kg)	Other (kg)	Food aid (GATT) (kg)	Other (kg)	Food aid (GATT) (kg)	Other (kg)

⁽¹⁾ Within the meaning of the second subparagraph of Article 5 (1).

COMMISSION REGULATION (EC) No 27/97
of 9 January 1997
fixing export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽¹⁾, and in particular Article 35 (8) (11) thereof,

Whereas Commission Regulation (EC) No 2190/96 of 14 November 1996⁽²⁾, as amended by Regulation (EC) No 26/97⁽³⁾, lays down detailed rules on export refunds on fruit and vegetables;

Whereas Article 26 (1) of Council Regulation (EEC) No 1035/72⁽⁴⁾, as last amended by Commission Regulation (EC) No 1363/95⁽⁵⁾, provides that, to the extent necessary for economically significant quantities of the products listed in that Article to be exported, the difference between the international market prices for those products and their prices in the Community may be covered by export refunds;

Whereas Article 26 (4) of Regulation (EEC) No 1035/72 provides that refunds must be fixed in the light of the existing situation or the outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand; whereas account must also be taken of the costs referred to in Article 26 (4) (b) of that Regulation and of the economic aspect of the exports planned;

Whereas, pursuant to Article 26 (1) of Regulation (EEC) No 1035/72, refunds are to be set with due regard to the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas, in accordance with Article 26 (5) of Regulation (EEC) No 1035/72, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint; whereas international trade prices are to be established in the light of the prices referred to in the second subparagraph of that paragraph;

Whereas the international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination;

Whereas tomatoes, lemons, oranges and apples of classes Extra, I and II of the common quality standards, table grapes of classes Extra and I, shelled almonds, hazelnuts and walnuts in shell can currently be exported in economically significant quantities;

Whereas the representative market rates as defined in Article 1 of Council Regulation (EEC) No 3813/92 of 28 December 1992⁽⁶⁾, as last amended by Regulation (EC) No 150/95⁽⁷⁾, are used to convert amounts expressed in currencies of third countries and provide the basis for determining the agricultural conversion rates for the Member States' currencies; whereas rules for determining and applying those conversion rates are laid down in Commission Regulation (EEC) No 1068/93 of 30 April 1993⁽⁸⁾, as last amended by Regulation (EC) No 1482/96⁽⁹⁾;

Whereas the application of the abovementioned rules to the present and forecast market situation, and in particular to fruit and vegetable prices in the Community and international trade, gives the refund rates set out in the Annex hereto;

Whereas, pursuant to Article 26 (2) of Regulation (EEC) No 1035/72, the resources available should be used as efficiently as possible while avoiding discrimination between traders; whereas, therefore, care should be taken not to disturb the trade flows previously induced by the refund arrangements; whereas, for those reasons and because of the seasonal nature of exports of fruit and vegetables, quotas should be fixed for each product;

Whereas, owing to the market situation, in order to make the most efficient use of the resources available and given the structure of Community exports, the most appropriate method should be selected for export refunds on certain products and consequently refunds under the A1 and A2 licence arrangements referred to in Article 1 of Regula-

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ No L 292, 15. 11. 1996, p. 12.

⁽³⁾ See page 9 of this Official Journal.

⁽⁴⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁵⁾ OJ No L 132, 16. 6. 1995, p. 8.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁸⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ No L 188, 27. 7. 1996, p. 22.

tion (EC) No 2190/96 should not be fixed simultaneously for the export period in question; whereas under the A2 system a distinction should be made between close and more remote destinations;

Whereas account should be taken of the definitive rates under the A2 system fixed for the preceding licence application period;

Whereas the Management Committee for Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

2. Quantities covered by licences issued for food aid as referred to in Article 14a of Commission Regulation (EEC) No 3719/88 ⁽¹⁾, of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products shall not count against the eligible quantities covered by paragraph 1.

3. Without prejudice to the application of Article 4 (5) of Regulation (EC) No 2190/96, the term of validity of A1 and A2 licences shall be two months.

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds on fruit and vegetables shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 331, 2. 12. 1988, p. 1.

ANNEX

EXPORT REFUNDS ON FRUIT AND VEGETABLES

Product (Full definitions of eligible products are given in the 'Fruit and vegetables' section of Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1))	Product code	A1 applications from 10. 1. 1997 to 5. 3. 1997			A2 applications from 10. 1. 1997 to 16. 1. 1997			B Export period from 17. 1. 1997 to 12. 3. 1997		
		Destination or destination group (1)	Refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)	Destination or destination group (1)	Indicative refund rate (ECU/tonnes net weight)	Indicative quantity (tonnes)	Destination or destination group (1)	Indicative refund rate (ECU/tonnes net weight)	Indicative quantity (tonnes)
Tomatoes	0702 00 15 9100 0702 00 20 9100 0702 00 25 9100 0702 00 30 9100 0702 00 35 9100 0702 00 40 9100 0702 00 45 9100 0702 00 50 9100	F	36,2	2 811				F	36,2	2 811
Shelled almonds	0802 12 90 9000	F	77,9	192				F	77,9	192
Hazelnuts in shell	0802 21 00 9000	F	91,0	11				F	91,0	11
Shelled hazelnuts	0802 22 00 9000	F	175,6	760				F	175,6	760
Walnuts in shell	0802 31 00 9000	F	112,9	13				F	112,9	13
Oranges	0805 10 01 9200 0805 10 05 9200 0805 10 09 9200 0805 10 11 9200 0805 10 15 9200 0805 10 19 9200 0805 10 21 9200 0805 10 25 9200 0805 10 29 9200 0805 10 31 9200 0805 10 33 9200 0805 10 35 9200 0805 10 37 9200 0805 10 38 9200 0805 10 39 9200 0805 10 42 9200 0805 10 44 9200 0805 10 46 9200 0805 10 51 9200 0805 10 55 9200 0805 10 59 9200 0805 10 61 9200 0805 10 65 9200 0805 10 69 9200	XYC	88,6		XC	88,6	49 723	XYC	88,6	72 062
					Y	88,6	22 339			
Lemons	0805 30 20 9100 0805 30 30 9100 0805 30 40 9100	F	108,7	12 808				F	108,7	12 808

Product (Full definitions of eligible products are given in the 'Fruit and vegetables' section of Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1))	Product code	A1 applications from 10. 1. 1997 to 5. 3. 1997			A2 applications from 10. 1. 1997 to 16. 1. 1997			B Export period from 17. 1. 1997 to 12. 3. 1997		
		Destination or destination group (¹)	Refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)	Destination or destination group (¹)	Indicative refund rate (ECU/tonnes net weight)	Indicative quantity (tonnes)	Destination or destination group (¹)	Indicative refund rate (ECU/tonnes net weight)	Indicative quantity (tonnes)
Table grapes	0806 10 21 9200 0806 10 29 9200 0806 10 30 9200 0806 10 40 9200 0806 10 50 9200 0806 10 61 9200 0806 10 69 9200	F	39,0	316						
Apples	0808 10 51 9910	XY	38,0		X	38,0	2 838	XY	38,0	4 652
	0808 10 53 9910									
	0808 10 59 9910									
	0808 10 61 9910									
	0808 10 63 9910	ZD	72,0		Y	38,0	1 814	ZD	72,0	2 975
	0808 10 69 9910									
	0808 10 71 9910									
	0808 10 73 9910									
	0808 10 79 9910									
	0808 10 92 9910									
	0808 10 94 9910									
	0808 10 98 9910									
Peaches and nectarines	0809 30 11 9100 0809 30 19 9100 0809 30 21 9100 0809 30 29 9100 0809 30 31 9100 0809 30 39 9100 0809 30 41 9100 0809 30 49 9100 0809 30 51 9100 0809 30 59 9100	E	40,2							

(¹) The destination codes are defined as follows:

X: Norway, Iceland, Greenland, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Bosnia-Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Federal Republic of Yugoslavia (Serbia and Montenegro), Malta.

Y: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine.

Z: Faeroes, African countries and territories except South Africa, countries of the Arabian Peninsula (Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qaiwain, Ras al Khaimah, Fujairah), Kuwait, Yemen), Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia.

C: Switzerland, Czech Republic, Slovakia.

D: Hong Kong, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico, Costa Rica.

E: All destinations except Switzerland.

F: All destinations.

COMMISSION REGULATION (EC) No 28/97

of 9 January 1997

laying down detailed rules for implementation of the specific measures for the supply of certain vegetable oils for the processing industry in the French overseas departments and assessing supply requirements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments⁽¹⁾, as last amended by Regulation (EC) No 2598/95⁽²⁾, and in particular Article 2 (6) thereof,

Whereas Article 2 of Regulation (EEC) No 3763/91 requires an assessment of the supply requirements of the French overseas departments in vegetable oils (other than olive oil) for use in the processing industry to be drawn up and the amount of aid for products from the rest of the Community fixed; whereas that aid should be fixed with particular reference to the costs of supply from the world market and the conditions created by the geographical location of the French overseas departments;

Whereas Commission Regulation (EEC) No 131/92⁽³⁾, as last amended by Regulation (EC) No 1736/96⁽⁴⁾, laid down common detailed rules for implementation of the specific measures for the supply of certain agricultural products to the French overseas departments; whereas further rules adapted to the commercial practices in the sector of vegetable oils (other than olive oil) for use in the processing industry concerning, in particular, the duration of validity of the certificates and the amount of the security to ensure that operators comply with their obligations should be adopted;

Whereas this Regulation should enter into force as soon as possible so that licences can be issued as quickly as possible;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 2 of Regulation (EEC) No 3763/91, the quantity of the assessment of supply require-

ments of vegetable oils (other than olive oil) for the processing industry falling within CN codes 1507 to 1516 (except 1509 and 1510) exempt from customs duty when imported into the French overseas department or entitled to aid when brought in from elsewhere in the Community is fixed at 10 400 tonnes for the period from 1 January to 31 December 1997.

The allocation of this quantity is shown in the Annex.

The French authorities may adjust this allocation by an amount not exceeding 20 % of the quantity for each department. They shall inform the Commission thereof.

Article 2

For the purposes of Article 2 (4) of Regulation (EEC) No 3763/91, aid for the supply to the French overseas departments of vegetable oils (other than olive oil) for the processing industry falling within CN codes 1507 to 1516 (except 1509 and 1510) from elsewhere in the Community is fixed under the assessment of supply requirements at ECU 30 per tonne for French Guiana and Martinique and ECU 35 per tonne for Réunion.

Article 3

France shall designate the authority responsible for:

- (a) issuing the exemption certificate referred to in Article 2a (1) of Regulation (EEC) No 131/92;
- (b) issuing the aid certificate referred to in Article 3 (1) of Regulation (EEC) No 131/92;
- (c) paying the aid to the operators concerned.

Article 4

1. Applications for licences shall be made to the responsible authority during the first five working days of each month. An application shall be considered only if:

- (a) the quantity applied for does not exceed the maximum quantity of vegetable oils (other than olive oil) available under the assessment of supply requirements published by the French authorities;
- (b) before expiry of the deadline for the submission of applications for licences, proof has been provided that the person concerned has lodged a security of ECU 25 per tonne.

⁽¹⁾ OJ No L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ No L 267, 9. 11. 1995, p. 1.

⁽³⁾ OJ No L 15, 22. 1. 1992, p. 13.

⁽⁴⁾ OJ No L 225, 6. 9. 1996, p. 3.

Applications may be submitted for the first time at the beginning of January 1997.

2. Licences shall be issued no later than the tenth working day of each month.

3. Where licences are issued for less than the quantities applied for, the operator concerned may withdraw his application in writing within three working days of issue of the licence. In that case, the security shall be released immediately.

4. The maximum quantity available under the assessment of supply requirements shall be published by the authority responsible during the last week of each month.

5. For January 1997 the authorities responsible shall determine the first period for submitting applications for licences and shall issue the licences as soon as possible.

Article 5

Exemption certificates and aid certificates shall expire on the last day of the second month following that in which they were issued.

Article 6

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

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Vegetable oils (except olive oil) for use in the processing industry falling within CN codes 1507 to 1516 (except 1509 and 1510)

Department	Quantity (in tonnes)
French Guiana	400
Martinique	2 000
Réunion	8 000

COMMISSION REGULATION (EC) No 29/97

of 9 January 1997

laying down derogations in the beef and veal sector as a result of certain veterinary measures

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 2222/96 ⁽²⁾, and in particular Article 23 thereof,

Whereas, pursuant to Commission Decision 96/643/EC of 13 November 1996 concerning protective measures with regard to imports of certain animals and their products from Bulgaria due to outbreaks of foot-and-mouth disease ⁽³⁾, imports of live animals from certain third countries via Bulgaria into Greece have not been possible since 13 November 1996; whereas, by Decision 96/730/EC of 17 December 1996 concerning protective measures with regard to imports of certain animals and their products from Bulgaria due to an outbreak of foot-and-mouth disease and repealing Decision 96/643/EC ⁽⁴⁾, the Commission is allowing animal shipments under certain conditions; whereas the special import licences issued under certain import arrangements in the beef and veal sector should therefore be extended for an appropriate period;

Whereas, given the volume of trade in question, the urgent nature of the matter requires that this Regulation enter into force on the day of its publication in the *Official Journal of the European Communities*;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The period of validity of the import licences issued under the following Commission Regulations:

— (EC) No 1113/96 ⁽⁵⁾ opening and providing for the administration of tariff quotas for the import of bulls, cows and heifers, other than those intended for slaughter, of certain alpine and mountain breeds, for the period 1 July 1996 to 30 June 1997,

— (EC) No 1119/96 ⁽⁶⁾ opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1996 to 30 June 1997),

— (EC) No 1233/96 ⁽⁷⁾ of laying down detailed rules for the application of a tariff quota for cows and heifers other than for slaughter of certain mountain breeds originating in certain third countries for the second half of 1996,

— (EC) No 1250/96 ⁽⁸⁾ of laying down for the second half of 1996 certain detailed rules for the application of a tariff quota for live bovine animals weighing between 160 and 300 kilograms originating in certain third countries,

which are valid for a period ending between 13 November and 31 December 1996 is hereby extended to 31 January 1997 at the request of the importer in question.

2. The request referred to in paragraph 1 above must be accompanied by the original of the licence concerned.

Article 2

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

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 296, 21. 11. 1996, p. 50.

⁽³⁾ OJ No L 292, 15. 11. 1996, p. 37.

⁽⁴⁾ OJ No L 331, 20. 12. 1996, p. 49.

⁽⁵⁾ OJ No L 148, 21. 6. 1996, p. 26.

⁽⁶⁾ OJ No L 149, 22. 6. 1996, p. 4.

⁽⁷⁾ OJ No L 161, 29. 6. 1996, p. 94.

⁽⁸⁾ OJ No L 161, 29. 6. 1996, p. 131.

COMMISSION REGULATION (EC) No 30/97
of 9 January 1997
on the issue of import licences for garlic originating in China

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

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽¹⁾,

Having regard to Council Regulation (EC) No 885/96 of 15 May 1996 concerning a protective measure applicable to imports of garlic from China⁽²⁾, and in particular Article 1 (3) thereof,

Whereas pursuant to Commission Regulation (EEC) No 1859/93⁽³⁾, as amended by Regulation (EC) No 1662/94⁽⁴⁾, the release for free circulation in the Community of garlic imported from third countries is subject to presentation of an import licence;

Whereas Article 1 (1) of Regulation (EC) No 885/96, restricts the issue of import licences for garlic originating in China to a maximum monthly quantity in the case of applications lodged from 1 June 1996 to 31 May 1997;

Whereas, given the criteria laid down in Article 1 (2) of that Regulation and the import licences already issued, the quantity applied for on 6 January 1997 is in excess of the maximum monthly quantity given in the Annex to

that Regulation for the month of January 1997; whereas it is therefore necessary to determine to what extent import licences may be issued in response to these applications; whereas the issue of licences in response to applications lodged after 6 January 1997 and before 5 February 1997 should be refused,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for on 6 January 1997 under Article 1 of Regulation (EEC) No 1859/93 for garlic falling within CN code 0703 20 00 originating in China shall be issued for 0,14286 % of the quantity applied for, having regard to the information available to the Commission on 8 January 1997.

For the abovementioned products applications for import licences lodged after 6 January 1997 and before 5 February 1997 shall be refused.

Article 2

This Regulation shall enter into force on 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ No L 119, 16. 5. 1996, p. 12.

⁽³⁾ OJ No L 170, 13. 7. 1993, p. 10.

⁽⁴⁾ OJ No L 176, 9. 7. 1994, p. 1.

COMMISSION REGULATION (EC) No 31/97
of 9 January 1997
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 2375/96⁽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 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽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 9 January 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 15	052	42,0
	204	57,1
	624	146,0
	999	81,7
0707 00 10	053	152,2
	624	112,4
	999	132,3
0709 10 10	220	151,0
	999	151,0
0709 90 71	052	127,5
	999	127,5
0805 10 01, 0805 10 05, 0805 10 09	052	40,5
	204	49,9
	448	26,2
	600	58,2
	624	46,8
	999	44,3
0805 20 11	052	52,8
	204	63,7
	999	58,3
0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	66,3
	464	86,0
	624	66,9
	999	73,1
0805 30 20	052	74,9
	528	45,5
	600	78,3
	999	66,2
0808 10 51, 0808 10 53, 0808 10 59	060	48,4
	064	65,4
	400	88,9
	404	74,6
	720	58,5
	999	67,2
0808 20 31	052	74,7
	064	71,6
	400	104,4
	624	71,0
	999	80,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 32/97
of 9 January 1997
fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular the third subparagraph of Article 13 (2) thereof,

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

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 last amended by Regulation (EC) No 95/96⁽⁴⁾;

Whereas the refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question; whereas the said quantities are laid down in Regulation (EC) No 1501/95;

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

Whereas the 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 1482/96⁽⁸⁾;

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

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

Whereas 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

The export refunds on malt listed in Article 1 (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.
⁽²⁾ OJ No L 126, 24. 5. 1996, p. 37.
⁽³⁾ OJ No L 147, 30. 6. 1995, p. 7.
⁽⁴⁾ OJ No L 18, 24. 1. 1996, p. 10.

⁽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 188, 27. 7. 1996, p. 22.

ANNEX

to the Commission Regulation of 9 January 1997 fixing the export refunds on malt

<i>(ECU/tonne)</i>	
Product code	Refund
1107 10 19 9000	17,00
1107 10 99 9000	37,70
1107 20 00 9000	44,00

COMMISSION REGULATION (EC) No 33/97

of 9 January 1997

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (2) thereof,

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

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 last amended by Regulation (EC) No 95/96⁽⁴⁾;

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

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

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

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

Whereas 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

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

Article 2

This Regulation shall enter into force on 10 January 1997.

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

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ No L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ No L 18, 24. 1. 1996, p. 10.

ANNEX

to the Commission Regulation of 9 January 1997 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)			(ECU / tonne)		
Product code	Destination ⁽¹⁾	Amount of refund ⁽²⁾	Product code	Destination ⁽¹⁾	Amount of refund ⁽²⁾
0709 90 60	—	—	1008 20 00 9000	—	—
0712 90 19	—	—	1101 00 11 9000	—	—
1001 10 00 9200	—	—	1101 00 15 9100	01	17,00
1001 10 00 9400	01	0	1101 00 15 9130	01	16,00
1001 90 91 9000	—	—	1101 00 15 9150	01	15,00
1001 90 99 9000	03	4,00	1101 00 15 9170	01	13,50
	02	0	1101 00 15 9180	01	13,00
1002 00 00 9000	03	21,50	1101 00 15 9190	—	—
	02	0	1101 00 90 9000	—	—
1003 00 10 9000	—	—	1102 10 00 9500	01	41,00
1003 00 90 9000	03	19,00	1102 10 00 9700	—	—
	02	0	1102 10 00 9900	—	—
1004 00 00 9200	—	—	1103 11 10 9200	01	10,50 ⁽²⁾
1004 00 00 9400	—	—	1103 11 10 9400	—	— ⁽²⁾
1005 10 90 9000	—	—	1103 11 10 9900	—	—
1005 90 00 9000	—	—	1103 11 90 9200	01	10,50 ⁽²⁾
1007 00 90 9000	—	—	1103 11 90 9800	—	—

⁽¹⁾ The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Liechtenstein, Ceuta and Melilla.

⁽²⁾ No refund is granted when this product contains compressed meal.

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

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 9 December 1996

on a third multiannual programme for small and medium-sized enterprises (SMEs) in the European Union (1997 to 2000)

(97/15/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130 (3) thereof,

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

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

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

1. Whereas on 10 October 1994 the Council adopted a resolution on giving full scope to the dynamism and innovatory potential of small and medium-sized enterprises, including the craft sector and micro-enterprises, in a competitive economy ⁽⁵⁾;
2. Whereas on 21 November 1994 the Council adopted a resolution on the strengthening of the competitiveness of Community industry ⁽⁶⁾;
3. Whereas on 27 November 1995 the Council adopted a resolution on small and medium-sized industrial enterprises (SMEs) and technological innovation ⁽⁷⁾;
4. Whereas on 22 April 1996 the Council adopted a resolution on the coordination of Community ac-

tivities in favour of small and medium-sized enterprises and the craft sector ⁽⁸⁾;

5. Whereas on 14 June 1993 the Council adopted Decision 93/379/EEC on a multiannual programme of Community measures to intensify the priority areas and to ensure the continuity and consolidation of policy for enterprise, in particular small and medium-sized enterprises, in the Community ⁽⁹⁾;
6. Whereas the Commission has submitted reports on measures arising from that Decision;
7. Whereas the Commission submitted to the European Parliament, the Council and the Economic and Social Committee and the Committee of the Regions an external evaluation report on the implementation of the current multiannual programme pursuant to Article 5 of Decision 93/379/EEC;
8. Whereas on 3 June 1994 in line with its White Paper on Growth, competitiveness and employment, the Commission adopted a communication on the implementation of an integrated programme in favour of SMEs and the craft sector aimed in particular at presenting the overall Community enterprise policy;
9. Whereas on 29 November 1995 the Commission adopted a report on 'SMEs: a dynamic source of employment, growth and competitiveness in the European Union', which it submitted to the Madrid

⁽¹⁾ OJ No C 156, 31. 5. 1996, p. 5.

⁽²⁾ OJ No C 320, 28. 10. 1996, p. 153.

⁽³⁾ OJ No C 295, 7. 10. 1996, p. 6.

⁽⁴⁾ Opinion delivered on 19 September 1996 (not yet published in the Official Journal).

⁽⁵⁾ OJ No C 294, 22. 10. 1994, p. 6.

⁽⁶⁾ OJ No C 343, 6. 12. 1994, p. 1.

⁽⁷⁾ OJ No C 341, 19. 12. 1995, p. 3.

⁽⁸⁾ OJ No C 130, 3. 5. 1996, p. 1.

⁽⁹⁾ OJ No L 161, 2. 7. 1993, p. 68.

European Council and in which the Commission called for a more ambitious enterprise policy to unlock the full potential of European enterprises for employment, growth and competitiveness;

10. Whereas SMEs make a major contribution towards entrenching the role of industry in the European Union, thereby compensating for the trend towards the relocation of businesses; whereas the special role played by SMEs, in particular through close relations with customers and staff and through the scope for personal development offered to many businessmen and businesswomen should not be underestimated;
11. Whereas this Decision constitutes the legal basis for specific complementary measures which are not part of other Community policies and which cannot be better carried out at Member State level;
12. Whereas the principle of subsidiarity must be respected when this multiannual programme is implemented;
13. Whereas SMEs whose activities span borders should be assisted in overcoming any structural weaknesses;
14. Whereas this Decision is especially directed at SMEs, regardless of sector, legal structure and geographical location, including, *inter alia*, the craft sector, enterprises in commerce and distribution and very small enterprises;
15. Whereas the measures set out in this Decision are applicable throughout the European Union and aim at:
 - encouraging an environment favourable for the development of SMEs,
 - improving the integration and organization of SMEs, especially small enterprises and crafts, in the single market,
 - improving the competitiveness of European SMEs and encouraging their Europeanization and internationalization, thus fostering growth, job creation and economic and social cohesion in the Community;
16. Whereas the actions in the area of transitional technological development will be managed in coordination with the Community's RTD programme, respecting the relevant decision-making procedures and whereas they will take into account the follow-up to the Green Paper on innovation;
17. Whereas the additional protocols to the Association Agreements concluded with the countries of central and eastern Europe provide for participation of those countries in Community programmes;
18. Whereas provision should also be made for participation by Cyprus and Malta in the framework of the Association Agreements concluded with those countries;
19. Whereas the second programme expires on 31 December 1996; whereas it is necessary to adopt a third programme for a four-year period and to endow it with sufficient resources to attain its objectives;
20. Whereas the Commission, assisted by the Committee, will take the necessary measures to implement this programme, apart from any tax harmonization measures,

HAS DECIDED AS FOLLOWS:

Article 1

A programme for Community policy for small and medium-sized enterprises (SMEs), including craft and very small enterprises, is hereby adopted for a period of four years from 1 January 1997.

Article 2

The programme referred to in Article 1, incorporating the measures specified in the Annex hereto, which are intended to supplement action by the Member States, shall have the following objectives:

1. Simplify and improve the administrative and regulatory business environment:
 - ensure consideration of the interests of SMEs in the various Community initiatives and policies,
 - simplify and improve Community legislation,
 - increase transparency and the spread of best practices in simplifying and improving the administrative and regulatory environment,
 - improve the framework for transitional operations of SMEs;
2. Improve the financial environment for enterprises:
 - improve access to loan and risk capital financing,
 - continue efforts to reduce late payment problems,
 - facilitate the development of specific financial instruments,
 - stimulate the development of capital markets for fast-growing SMEs;
3. Help SMEs to Europeanize and internationalize their strategies, in particular through better information and cooperation services;

- promote access by SMEs to the information society,
 - develop Community information services,
 - improve the promotion of SME policy actions,
 - promote cooperation through business partner search networks,
 - promote direct contacts through partnership programmes,
 - develop subcontracting partnerships,
 - improve the conditions under which SMEs participate in the internal market,
 - improve access to new markets and internationalization for SMEs;
4. Enhance SME competitiveness and improve access to research, innovation and training:
- increase the innovative potential of SMEs,
 - improve managerial ability,
 - adapt to environmental requirements;
5. Promote entrepreneurship and support target groups:
- business culture and entrepreneurship,
 - craft, small and micro-enterprises,
 - enterprises in commerce and distributive trades,
 - women and young entrepreneurs; enterprises run by entrepreneurs from disadvantaged groups;
6. Improve SME policy instruments.

Article 3

1. In order to achieve the objectives laid down in Articles 1 and 2, the Commission shall implement the necessary measures, insofar as they cannot be better carried out by the Member States, taking account of the findings of any specific evaluation reports.
2. The procedure laid down in Article 4 shall be followed for adopting measures relating to:
 - the adoption, experimental implementation or extension of the necessary projects devised for the application of this Decision,
 - the content and timetable of, and financial assistance for, measures and calls for proposals,
 - periodic evaluation of the results of each project in accordance with the timetables laid down in specific programmes.
3. The Commission may submit to the Committee referred to in Article 4 any other matters concerning the programme.
4. The Commission shall be responsible for the financial execution and implementation of the programme. The Commission shall also ensure that actions under this

programme are subject to thorough prior appraisal, monitoring and subsequent evaluation in the light of reports to be submitted by recipients of Community financing.

5. Community aid may be granted if it is necessary to enable a project to proceed. It should not exceed the amount necessary to support the project.

Article 4

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission.

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 on which it has decided for a period of three months from the date of communication,
- the Council, acting by a qualified majority, may take a different decision within the time-limit referred to in the previous paragraph.

Article 5

1. The Commission shall submit to the committee referred to in Article 4 annual reports on the implementation of this Decision.
2. The Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a biennial report assessing progress in the inclusion of the SME dimension in all Community policies and programmes, following its coordination activities.

Article 6

The Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, no later than the end of 1999, an external evaluation report on the

implementation of this Decision in order to assess whether the original objectives have been met, including a cost-effectiveness evaluation and any proposals which it deems necessary in the light of the evaluations effected.

Article 7

1. This programme shall be opened up to the participation of the associated countries of central and eastern Europe (CCEE), in accordance with the conditions laid down in the additional protocols to the Association Agreements with regard to participation in Community programmes concluded with those countries.

2. This programme shall be opened up to the participation of Cyprus and Malta on the basis of additional appropriations in accordance with the same rules as those applied to the EFTA countries that are members of the EEA, in accordance with procedures to be agreed on with those countries.

Article 8

1. This Decision shall enter into force on 1 January 1997 and shall cover the period up to 31 December 2000.

2. The financial reference amount for the implementation of this programme for the period 1 January 1997 to 31 December 2000 shall be ECU 127 million.

3. The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

Done at Brussels, 9 December 1996.

For the Council

The President

B. HOWLIN

ANNEX

MEASURES REFERRED TO IN ARTICLE 2

A. SIMPLIFY AND IMPROVE THE ADMINISTRATIVE AND REGULATORY BUSINESS ENVIRONMENT

A.1. *Ensure consideration of the interests of SMEs in the various Community initiatives and policies*

Integration of the SME dimension into the conception of Community policies. Promotion of the coordination of Community actions in favour of SMEs which enable SMEs to participate fully in all Community actions and programmes, including the Structural Funds and RTD, international cooperation and environmental programmes.

A.2. *Simplify and improve Community legislation*

Actions to avoid and reduce unnecessary administrative burdens and compliance costs in Community legislation which hinder the creation and development of enterprises, in particular SMEs. This includes the implementation of a pragmatic methodology for the evaluation of the impact of legislative proposals (including the use of a business impact assessment system and cost-benefit analyses wherever appropriate), as well as consultation of SMEs on new legislative proposals and monitoring of implementation of the Commission guidelines on regulatory policy.

A.3. *Increase transparency and the spread of best practices in simplifying and improving the administrative and regulatory environment*

Dissemination of best practices, in particular in the field of administrative simplification; promotion of actions on transfer of businesses and retention-of-title clauses.

A.4. *Improve the framework for transnational operations of SMEs*

Promotion of the development of alternative methods of settling transnational disputes between enterprises. Stimulation of appropriate legal structures for transnational operations of SMEs, in particular the use of the European Economic Interest Grouping (Regie project).

B. IMPROVE THE FINANCIAL ENVIRONMENT FOR ENTERPRISES

B.1. *Improve access to loan and risk capital financing*

Identification and dissemination of innovative practices in the field of better access for SMEs to loan financing (including mutual guarantee schemes and the Round Table of Bankers and SMEs).

B.2. *Continue efforts to reduce late payment problems*

Acceleration of follow-up to the recommendation on late payment and envisaging of further measures, if appropriate; support for actions to improve the financial management capabilities of SMEs.

B.3. *Facilitate the development of specific financial instruments*

Identification and stimulation of the best specific financial instruments of interest to SMEs, in particular factoring and credit insurance.

B.4. *Stimulate the development of and improve the framework conditions for capital markets for fast-growing SMEs (including Easdaq).*

C. HELP SMEs TO EUROPEANIZE AND INTERNATIONALIZE THEIR STRATEGIES, IN PARTICULAR THROUGH BETTER INFORMATION AND COOPERATION SERVICES

C.1. *Develop Community information services*

Better access to Community information for enterprises: development of the Euro-Info-Centre network as a 'first-stop shop', directing requests to the most appropriate Community service provider, in agreement with national services if necessary; improvement of the composition of the network and quality of services by a better targeting of community subsidies; enlarging and reinforcing the information role in the Union's main areas of action; improving the adaptation of Community information services to the requirements of enterprises particularly by developing a partnership with the existing recognized professional organizations and Member States' business support networks for aid to SMEs, including those for crafts.

C.2. *Improve the promotion of SME policy actions*

Promotion campaigns in coordination with the EIC network; organization of European business weeks.

C.3. *Promote cooperation through business partner-search networks*

Qualitative improvement and definition of a quality standard for the confidential business partner-search network (BC-NET) and the non-confidential partner-search network (BCC), together with the search for other effective means of promoting business cooperation.

C.4. *Promote direct contacts through partnership programmes*

Continued development of instruments permitting direct contact between entrepreneurs (Europartnership and Enterprise programmes).

C.5. *Develop subcontracting partnerships*

Development of actions aimed at promoting transnational subcontracting.

C.6. *Improve the conditions under which SMEs participate in the internal market*

Encouraging the elimination of obstacles to business activities. Facilitating SME participation in public contracts.

Promoting access of SMEs and craft enterprises to the information society.

C.7. *Improve access to new markets and internationalization for SMEs*

Examination of new opportunities to increase transnational business by SMEs within the internal market and worldwide.

D. ENHANCE SME COMPETITIVENESS AND IMPROVE ACCESS TO RESEARCH, INNOVATION AND TRAINING

D.1. *Increase the innovative potential of SMEs*

Identifying best practices and testing concrete approaches through pilot schemes, in particular in the fields of developing firms with growth potential and new-technology-based firms (NTBFs); stimulating the use of information technologies by SMEs through the exchange of good practices and through improving measures to encourage access by SMEs for existing Community programmes.

D.2. *Improve managerial ability*

Helping to identify and test positive approaches in the field of management training through the exchange of good practices and through improving measures to encourage access by SMEs for existing Community programmes.

D.3. *Adapt to environmental requirements*

E. PROMOTE ENTREPRENEURSHIP AND SUPPORT TARGET GROUPS

E.1. *Business culture and entrepreneurship*

Encouraging the exchange of best practice, including that of particularly dynamic entrepreneurs.

E.2. *Craft, small and micro-enterprises*

- study of the institutional environment of small and craft enterprises,
- launching of projects enabling these enterprises to adapt to structural changes, to integrate better into the single market and to benefit from the opportunities offered by that market, including the fields of standardization, certification and environmental and quality management.

E.3. *Enterprises in commerce and distributive trades*

Facilitating the process of adjustment by commercial enterprises to the single market and to structural changes, in particular through new technologies (Commerce 2000). Promotion of cooperation between SMEs. Dissemination of results of pilot projects. Follow-up to the Green Paper on commerce and distribution.

E.4. *Women and young entrepreneurs; enterprises run by entrepreneurs from disadvantaged groups*

Support for efforts to find innovative solutions after identifying the specific problems faced by:

- women entrepreneurs and young entrepreneurs,
- enterprises run by entrepreneurs from disadvantaged groups.

F. IMPROVE SME POLICY INSTRUMENTS

- Consultation of the organizations representing SMEs and craft enterprises at European level when policies regarding them are evaluated and drawn up,
 - Improvement of statistics on SMEs without increasing the burden on enterprises; European Observatory for SMEs; studies; database concerning SME policy measures;
 - Evaluation of existing actions on the basis of efficiency criteria and development of proposals for new Community measures in areas affecting enterprises.
-

COUNCIL DECISION
of 20 December 1996
setting up an Employment and Labour Market Committee

(97/16/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 145 thereof,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas the European Council, at its recent meetings, confirmed that the fight against unemployment and the effort to achieve equal opportunities were the paramount tasks for the Community and its Member States;

Whereas, at its meeting on 9 and 10 December 1994 in Essen, the European Council identified priority areas for action to overcome structural employment problems; whereas it requested each Member State to incorporate these recommendations into a multiannual programme; whereas it invited the Council in the field of Labour and Social Affairs and Economic and Financial Affairs and the Commission to keep close track of employment trends, to monitor the relevant policies of the Member States and to report annually to the European Council on further progress on the employment market; whereas it asked at its meeting on 15 and 16 December 1995 in Madrid to establish as soon as possible the practical monitoring systems, including a system of common indicators;

Whereas the European Council at its meeting in Madrid urged Member States to apply in the framework of their multiannual employment programmes measures with particular emphasis on those categories requiring special attention, such as young people seeking their first job, the long-term unemployed and unemployed women;

Whereas the Council in the field of Economic and Financial Affairs is assisted by the Economic Policy Committee set up by Council Decision 74/122/EEC⁽²⁾, in order to contribute to the coordination of the short and mid-term economic policies;

Whereas the Council in the field of Labour and Social Affairs has been assisted, thus far, by an *ad hoc* Working Party of the Representatives of Ministers for Labour and Employment set up on 27 March 1995;

Whereas, in order to ensure the continued success of the Community's strategy for employment and to facilitate the practical implementation of the employment monitoring procedure decided on in Essen, the European Council at its meeting in Madrid in December 1995 felt that it was necessary to establish, as soon as possible, a stable structure to assist the Council in the field of employment;

Whereas it is now appropriate for the Council to decide to set up an Employment and Labour Market Committee in the light of decisions taken by successive European Councils following publication of the White Paper on Growth, competitiveness and employment of 1993;

Whereas it is important to associate the social partners with future work in this field;

Whereas the setting up of the Committee is without prejudice to the respective competences of Member States and the Community in the fields covered by the work of the Committee and without prejudice to Article 151 of the Treaty as regards preparing the work of the Council,

HAS DECIDED AS FOLLOWS:

Article 1

1. An Employment and Labour Market Committee (hereinafter referred to as 'the Committee') is hereby set up to assist the Council in carrying out its responsibilities in these fields.

2. Within the terms of the policy priorities laid down by the Council, the Committee shall, *inter alia* with regard to the multiannual programmes of the Member States and to the common system of indicators to be established:

- keep close track of employment trends for men and women in the Community and monitor the Member States' employment and labour market policies,
- facilitate exchanges of information and experience between Member States and with the Commission in these fields.

The Committee shall prepare reports and proposals for the Council on these questions. It may, on its own initiative, undertake work within its area of competence.

3. The Committee shall work as far as necessary in cooperation with other relevant bodies, in particular the Economic Policy Committee. It will also maintain an appropriate liaison with the Standing Committee on Employment.

Article 2

The Committee shall consist of two representatives appointed by each Member State and two representatives of the Commission. These representatives may be assisted by two alternates.

⁽¹⁾ OJ No C 347, 18. 11. 1996.

⁽²⁾ OJ No L 63, 5. 3. 1974, p. 21.

Article 3

1. The Committee shall elect its chairman from among the representatives of the Member States for a non-renewable term of two years.

2. The Commission shall provide the analytical and organizational support for the Committee. It shall liaise with the General Secretariat of the Council with regard to the holding of meetings.

3. The Committee shall establish its own rules of procedure.

4. Meetings on the Committee shall be convened by the chairman, either on his own initiative or at the request of at least half of the members of the Committee.

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

COMMISSION

COMMISSION DECISION

of 30 July 1996

concerning aid granted to Santana Motor SA

(Only the Spanish text is authentic)

(Text with EEA relevance)

(97/17/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 the parties concerned the opportunity to submit their comments, in accordance with the above-mentioned Articles,

Whereas:

I

Opening of the procedure provided for in Article 93 (2) of the Treaty

On 11 January 1995 the Commission decided⁽¹⁾ to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of aid granted by the Spanish authorities to Santana Motor SA (Santana), previously owned by the Japanese company Suzuki Motor Co. (Suzuki).

The aid covered by the procedure consisted of:

1. (a) a loan of Pta 6 800 million granted by the Instituto de Crédito Oficial (ICO);
- (b) another loan of Pta 6 800 million granted by the Instituto de Fomento de Andalucía (IFA), a public institution owned by the Autonomous Community of Andalusia.

Both loans were without interest and were to be reimbursed through the assignment of a fixed percentage of profits.

Both loans were decided on, and up to Pta 10 116 million was paid out, without the Commission's authorization;

2. redundancy payments made by the regional authorities to encourage workers to take early retirement (amount unknown);
3. aid paid in 1994 to Santana's suppliers (amount unknown).

In its notice the Commission stated that these aid measures would be assessed in the light of the Community framework on State aid to the motor vehicle industry⁽²⁾ and the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽³⁾.

In accordance with the above guidelines, the Commission takes the needs of regional development into account when assessing restructuring aid in assisted areas. Nevertheless, the criteria normally used for assessing restructuring aid are also applied in such cases, since in the medium to long term, it does not help a region to prop up artificially companies which for structural or other reasons are ultimately doomed to failure.

II

Observations from interested parties

No comments were received from third parties pursuant to the Article 93 (2) procedure. The Spanish authorities transmitted their observations in connection with the opening of the procedure by letter of 31 March 1995 (after having requested and been allowed a one-month extension of the deadline).

⁽¹⁾ OJ No C 144, 10. 6. 1995, p. 13.

⁽²⁾ OJ No C 123, 18. 5. 1989, p. 3.

⁽³⁾ OJ No C 368, 23. 12. 1994, p. 12.

The problem of aid to partner companies was raised, in particular, in the letters received from Spain on 17 February and 31 May 1995.

Various changes were made in the mean time to the company's restructuring plan, and a new amended plan was drawn up in April 1995. Commission officials also visited the plants in April 1995 and held a number of meetings with the parties; they raised various questions concerning the viability plan, essentially in two letters dated 30 May and 19 September 1995. The answers to those letters were received on 31 July and 19 December 1995 respectively. However, the latest data enabling Commission officials to quantify the cost of restructuring and the level of aid were received only on 26 June and 10 July 1996.

In their replies to the Commission's notification of its decision to initiate the procedure, the Spanish authorities claimed that the company was not competing with other Community manufacturers at the lower end of the market for sport utility vehicles (SUVs), which constituted a specific market. In their view, the SUV market could be divided into three separate segments, namely the lower (or popular) segment, the intermediate segment and the upper (or luxury) segment. The classification was based on price, which was in turn linked to engine power, engine capacity and vehicle size, and reflected differences in consumer tastes, needs and purchasing power. The Spanish authorities concluded that the aid granted to the company did not constitute aid within the meaning of Article 92(1) of the Treaty.

Nevertheless, while the aid measures had to be examined in the light of Article 92(1) of the Treaty, the Spanish authorities took the view that they should be found to be compatible with the common market on the basis of the Community guidelines on State aid for rescuing and restructuring firms in difficulty and the Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid⁽¹⁾. They adduced in support of their claim the company's expected return to viability as anticipated in the old restructuring plan dating back to April 1994 as well as in the new plan, drawn up in March 1995, which took account of the company's new situation following the suspension of payments procedure and the purchase by the IFA of the shares previously held in the company by Suzuki.

Spain stated that the aid to companies linked to Santana was granted above all in order to prevent those companies, which were mostly SMEs and worked for Santana, from going bankrupt as a result of suspension of the latter's payments. Some of the aid granted was not linked

to Santana's situation but merely constituted regional investment aid, however. The aid to the firms in question that could be deemed to fall within the scope of the Community framework on State aid to the motor vehicle industry did not fulfil the criteria for notification since the investment costs did not exceed ECU 12 million. A list of the recipient firms was transmitted.

The aid to those firms was granted as regional aid, in accordance with the conditions laid down in an ongoing programme previously approved by the Commission (Law No 50/85 of 27 December 1985 and Royal Decree No 1535/87 of 11 December 1987), in the form of loan guarantees, interest subsidies on the guaranteed loans, direct loans and moratorium agreements to postpone payment of social security contributions. There was no relationship whatsoever between the aid granted and any possible participation of these firms in the vote taken at the Santana creditors' meeting on 26 September 1994, which wrote off the company's debts and enabled the suspension of payments to be lifted.

III

Analysis of the restructuring plan

Santana Motor SA (Santana) is a Spanish company whose main manufacturing plant is located at Linares (Jaen province) in the Autonomous Community of Andalusia. It produces Suzuki SUV models. Its turnover in 1993 (the last year of normal operations before restructuring) stood at Pta 48 516 million (approximately ECU 303 million), and at 31 December 1993 it employed 2 838 workers at the main Linares plant. In addition to its Linares factory, the company has plants at La Carolina (Jaen), where its distribution centre and training centre are located, works at Manzanares in the Autonomous Community of Castile-La Mancha, which produces engine parts for the Linares plant and motorcycle engines, and a head office in Madrid.

Santana belonged to the Japanese firm Suzuki Motor Corporation (Suzuki) until 29 December 1994, when Suzuki sold its shares, amounting to 83,74 % of the company's capital, to the IFA. The sale of the Manzanares works to Suzuki Manufacturing SA, which was planned in 1993, has been suspended and is expected to be concluded before the end of 1996.

After a period of social unrest and financial difficulties, the company initiated the statutory procedure for the suspension of payments, on 17 February 1994, having run up debts amounting to Pta 23 000 million while its assets stood at only Pta 3 638 million on 31 December 1993. It nevertheless reached an agreement with its creditors which was authorized by the court on 17 December 1994.

⁽¹⁾ OJ No C 212, 12. 8. 1988, p. 2.

The restructuring plan finalized in April 1995 is based on the company's situation after the suspension of payments procedure and uses 1993 as the reference year. It covers the period 1995 to 1997 and expects the firm to break even in 1996 and to return profits from 1997 onwards.

Financial restructuring

On 26 September 1994 Santana and its creditors signed an agreement whereby the latter consented to write off the company's debts. The debt write-off amounted to some Pta 13 600 million, corresponding to 100 % of the claims held by foreign suppliers (Suzuki) and 33 % of the claims held by domestic suppliers; the remaining 67 % of the claims held by the latter were rescheduled for reimbursement over a period of three and a half years without interest.

At the same time and in order to enable the company to stay in business, the Spanish authorities agreed to grant Santana two equity loans totalling Pta 13 600 million on particularly advantageous terms. The two loans were for the same amount (Pta 6 800 million each) and were to be disbursed on identical terms by the ICO and the IFA. They were interest-free and were to be reimbursed in the form of a fixed percentage (17,5 %) of the company's pretax profits. Suzuki contributed Pta 5 271 million to the debt write-off.

On 17 December 1994 the suspension of payments was lifted. On 29 December of that year, the Japanese owner (Suzuki Japan) sold its interest in the company to the IFA for a token amount. On the same date, Suzuki and Santana signed a 'commercial and technological agreement' laying down the conditions under which Santana could continue producing Suzuki four-wheel drive vehicles.

The Regional Government of Andalusia recently undertook to convert into capital the loan which it granted via the IFA (Pta 6 800 million). When it has done so, the company's accumulated losses will be brought down to the level of its current capital, namely Pta 2 729 million. The new capital will then be Pta 6 800 million.

Restructuring of the workforce

In addition to the financial restructuring, the plan provides for major restructuring of the workforce involving a large number of lay-offs (1 034 workers) and a complete reorganization of the remaining payroll with a view to boosting productivity and improving quality. Greater flexibility has been achieved in the production process, in particular through the classification of workers into only two professional groups and full functional

mobility within each of them. More flexibility has also been introduced as regards the length of the working day, within the limits of total annual working time. The company has adopted new systems of quality control and new methods for keeping track of working time.

The lay-offs took place under three different sets of arrangements: a preretirement plan, which concerned 348 employees and was initiated before the suspension of payments; an early retirement scheme, which involved the departure of 538 workers; and a voluntary redundancy scheme, which concerned 148 workers.

- (a) Under the voluntary redundancy scheme, workers who left the company in 1994 were paid a lump sum the amount of which was agreed between the company and the workers. The scheme cost a total of Pta 634 million; the company disbursed Pta 338 million and the Autonomous Community contributed Pta 296 million.
- (b) The early retirement scheme involved the creation of a pension fund by an insurance company, which was then to pay a pension to members of the scheme. Former workers made over to the insurance company the redundancy payments they received from Santana, namely the statutory compensation laid down in the workers statute, which came to a total of Pta 1 355 million; the employment department of the Regional Government of Andalusia contributed Pta 4 026 million in order to make the amount of income accruing to each worker more acceptable. The scheme was negotiated and agreed in 1994 between the company and the workers. Despite this, the trade unions applied to the courts for a review based on a wage increase. They won the case and the courts ordered Santana to pay a further sum of Pta 739 million, which was provided by the Autonomous Community (which had already disbursed Pta 205 million), bringing the total public contribution to Pta 4 765 million. The total cost of the scheme thus came to Pta 6 119 million.
- (c) The preretirement plan (AEJA scheme), which the company was authorized to put into effect by three Ministerial Orders (employment cases 38/92, 38/93 and 106/93), enabled 348 workers to qualify for the benefits offered by this type of retirement under the general AEJA (aid equivalent to early retirement) scheme. In accordance with the applicable legislation, the State can finance up to 40 % of the authorized costs; the company pays the difference and can negotiate with the workers an extra allowance to top up the final payment received by the workers. The cost of the plan initially came to Pta 6 253 million, of which Pta 1 740 million was to be borne by the State and Pta

4 513 million by the company. The company also asked the Regional Government of Andalusia to pay the extra allowances it had agreed with the workers, and that request was granted. Nevertheless, when suspension of the company's payments was announced Santana was unable to fulfil its obligations, with the effect that implementation of the plan was suspended and the former workers have continued to receive a wage pending a final solution. In those circumstances, the company has already disbursed Pta 918 million and the Autonomous Community Pta 931 million.

In the mean time, consideration is being given to a revision of the plan involving transfer of all the obligations to an insurance company. The premium required by the insurance company in May 1995 could have been covered by the amounts which the Autonomous Community had already agreed to pay under previous decisions (40 % of the standard costs plus extra allowances); this would undoubtedly have been a more economical solution. Since then, the cost of this type of insurance has risen, and the lowest offer is now Pta 4 160 million. The total cost of this plan currently stands at Pta 6 009 million.

The Regional Government of Andalusia has agreed to pay up to Pta 4 160 million for this insurance, or the definitive plan which is opted for, which brings the total public contribution to Pta 5 091 million.

Industrial restructuring

The plan is based on the technological agreement concluded with Suzuki, which lays down the terms whereby Santana is allowed to continue producing Suzuki models. The agreement is to apply until December 1999 and has four main provisions:

1. Santana is granted the exclusive right to produce and assemble in Spain (with a minimum of 25 000 units), and to sell and distribute in Spain and the rest of the Community, three Suzuki SUV models (SJ410, SJ413 and SE416);
2. Santana is to increase the proportion of European components used in manufacture, a major item being the new diesel engine supplied by Peugeot;
3. Santana is to pay Suzuki royalties in the form of a percentage of the value of its sales minus the value of imported components;

4. No substantial change may be made to the company without Suzuki's approval.

The restructuring plan covers the period 1995 to 1997 and expects the firm to break even in 1996 and to return a profit in 1997. Average annual production is estimated at 30 000 units. The provisional accounts for 1995 are already available and show that results are in line with the plan's forecasts; shortfalls are due above all to the delay in selling the Manzanares plant and a lower volume of sales. Losses are also greater owing to the fact that the company has not yet received most of the social aid promised by the State. Lower production can apparently be accounted for by the large volume of stocks built up during 1994, when the suspension of payments was announced. Nevertheless, financial statements and sales returns for the first quarter of 1996 are largely in line with the plan.

The main assumptions on which the success of the plan depends are: better workforce productivity, which the firm hopes to raise by 1997 to nearly double the 1993 level through greater flexibility of labour, a more flexible working day and less absenteeism; a larger proportion of European components, which will entail a steep cut in the costs of materials; and better final product quality, through a strict quality control programme at all stages in the production process. All these indicators have reached the targets laid down in the plan; the slight discrepancies observed in 1995 can be explained by lower than expected output.

The technological agreement allows Santana to explore new geographic markets outside the Community, which could generate new sales opportunities that were not taken into account in the plan. The company is at the same time trying to conclude agreements on assembly operations with other manufacturers of four-wheel drive vehicles.

Total costs of restructuring

The total cost of the restructuring (1994 to 1997) stands at Pta 60 567 million. This includes debt write-downs (Pta 20 089 million), social costs (Pta 12 762 million) and the investments required in order to boost the proportion of European components used (Pta 4 193 million). However, the final cost of the social restructuring package is not yet known, since the final details of the scheme for the 348 former workers laid off before the suspension of payments have still to be settled (insurance policy to be taken out for them).

IV

The market

The SUV segment, which constitutes the internal market for the purposes of this Decision, accounts for some 2,5 % of the overall market for passenger vehicles in the European Economic Area. In 1993, the last year of normal operations before restructuring, the share of total sales in this segment taken by Suzuki models was nearly 16 %; this year, Suzuki was the market leader.

Since that time, the motor manufacturing industry in the EEA as a whole has been suffering from a structural excess of production capacity, and this also applies to the SUV segment, which increased production capacity considerably in the late 1980s on expectations of a steep rise in demand. According to the Commission's calculations, capacity utilization in the EEA stood at around 60 % in 1993.

The SUV market segment is expected to expand in Europe, with an estimated growth in sales of around 23 % between 1993 and the year 2000⁽¹⁾. Sales are not expected to stagnate or fall before 1999 or 2000. During the period covered by the restructuring plan (1995 to 1997), sales are forecast to rise by 18 %. Capacity utilization is also expected to improve considerably in that time, although it will remain way below the 80 % level. Capacity will be affected during the period by the new manufacturers who have recently entered this market segment (AMC/Chrysler).

The Commission does not share the Spanish Government's view that Santana's vehicles belong to a separate subsegment formed by small-engined SUVs. Like the company itself in its restructuring plan, the Commission is convinced (see its decision initiating the procedure) that SUVs form a single market segment in which the substitutability of supply and demand is so high that further segmentation of the market is not justified. Furthermore, Santana is now focusing its production on more powerful vehicles (with 16-valve petrol engines and a new diesel engine) which are in direct competition with SUVs produced by other manufacturers in the EEA.

V

State aid*(1) Financial restructuring: the two equity loans*

When assessing whether a capital injection by the State into a company constitutes State aid within the meaning

of Article 92(1), the Commission applies the private-investor principle, that is to say, it compares the behaviour of the State with that of a private investor operating under normal market conditions⁽²⁾. More specifically, it deems such an injection to be State aid:

- (i) where the public authorities' holding involves the taking over or the continuation of all or part of the non-viable operations of an ailing firm through the formation of a new legal entity;
- (ii) where the amount of the holding exceeds the real value of the company.

As stated earlier, the loan granted by the IFA is to be converted into capital. This capital injection (one of two equity loans) must be deemed to constitute State aid since the State has acquired ownership of the company from a private investor, for a token amount, as part of a rescue operation intended to prevent it from going bankrupt. Although no new legal entity was formed, this operation fulfils the criterion mentioned at (i) above. The capital injection was necessary in order to provide the company with resources enabling it to stay in business and without which it would have been declared bankrupt and wound up.

As far as the loan granted by the ICO is concerned, the following points should be taken into account:

- like the IFA loan, provision of this loan is tantamount to owning company resources (quasi-capital) that are deemed sufficient for the company not to have to cover its losses by reducing its capital, even if the former are more than double the latter,
- the loan is interest-free and any reimbursement will be only in the form of a fixed percentage of profits,
- the terms of the loan are such that it is nearly impossible to determine a deadline for its reimbursement.

In the light of these considerations, the full amount of the ICO loan must be assigned the same status as the IFA loan and must therefore be deemed to constitute State aid.

Total aid: Pta 13 600 million.

(2) Social aid to redundant workers

Total cost of the social measures:	Pta 12 762 million
Total public contribution:	Pta 10 152 million
State aid:	Pta 8 412 million
Total number of workers:	1 034

⁽¹⁾ Projection by DRI/McGraw-Hill, October 1995.

⁽²⁾ 'Public authorities' holdings in company capital', Bull. EC 9-1984.

Voluntary redundancy scheme. The Autonomous Community contributed Pta 296 million. Clearly, this is not a general scheme but a normal cost which a company has to bear when reducing its workforce. The whole of the State contribution therefore constitutes State aid within the meaning of Article 92(1).

Early retirement scheme. The Autonomous Community is to contribute Pta 4 765 million. This amount is deemed to constitute State aid since the scheme does not come under a general law (such as the Law of 9 April 1986 on the AEJA — aid equivalent to early retirement — scheme) but was designed as a voluntary scheme and the State contribution was made on a discretionary basis.

Pre-retirement under the AEJA scheme. The contribution made by the Autonomous Community amounts to Pta 5 091 million. The general law on the AEJA provides for a contribution amounting to only 40 % of the normal costs, which corresponds to Pta 1 740 million. This latter amount can therefore be regarded as not constituting State aid within the meaning of Article 92(1). Payment of the extra allowances was made under a law allowing the State (in this case the Regional Government) to award selective grants. This cannot be regarded as a general measure and ranks as State aid. The public contribution of Pta 3 351 million therefore constitutes State aid.

Most of the social aid is consequently deemed to be State aid within the meaning of Article 92(1) because it was not paid under general schemes. The exact amounts of the benefits were negotiated between the workers and the company, and only when they had been agreed did the company request a public financial contribution.

(3) Aid to partner companies

As regards the companies linked to Santana, there was no relationship whatsoever between the aid granted and any possible participation of those companies in the vote taken at the Santana creditors meeting on 26 September 1994, which wrote off the company's debts and enabled the suspension of payments to be lifted. Moreover, since the aid was granted under authorized schemes, there is no need for the Commission to investigate the matter any further.

To sum up, the total State contribution towards the restructuring of Santana amounts to the following:

Total cost of the restructuring:	Pta 60 567 million
Public contribution:	Pta 23 752 million
State aid:	Pta 22 012 million
Aid intensity:	36,3 %

The public contribution of Pta 22 012 million granted to Santana by the national authorities and the Autonomous Community constitutes State aid for the purposes of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement.

VI

Compatibility of the aid

Article 92(1) of the Treaty establishes the principle that, except where otherwise allowable, aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. However, Article 92(2) and (3) state the circumstances in which such aid is, or may be allowed.

Article 92(2) specifies certain types of aid which are compatible with the common market. Given the nature, location and purpose of the aid in this case, none of the headings is applicable.

Article 92(3) lists aid which may be compatible with the common market. Compatibility must be determined in the context of the Community as a whole and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principle established in Article 3(g) of the Treaty, the exceptions to the principle of Article 92(1) as set out in Article 92(3) must be construed narrowly when an aid scheme or any individual aid award is scrutinized.

In particular, the Commission has adopted for the motor vehicle industry a Community framework which lays down the criteria for evaluating the compatibility of aid in this sector with the common market, thereby limiting the scope for discretion allowed by Article 92(3).

The framework lays down that, in principle, rescue and restructuring aid should only be approved in exceptional circumstances. The aid must be linked to a satisfactory restructuring plan and only granted where it can be demonstrated that the Community interest is best served by keeping a manufacturer in business and reestablishing its viability. It will be necessary to ensure that the aid will not allow a beneficiary to increase its market share at the expense of its unaided competitors. In cases where certain companies still have excess capacity, such as in the commercial vehicle sector, the Commission may require reductions in capacity in order to contribute to the overall recovery of the sector.

The Community guidelines on State aid for rescuing and restructuring companies in difficulty⁽¹⁾ lay down the general principle that, irrespective of its form, restructuring aid will be authorized only where it is in the Community interest and is linked to a viable restructuring/recovery programme submitted in all relevant detail to the Commission. A restructuring plan will need to satisfy all the following conditions,

- (a) Restoration of viability. The restructuring plan must restore the long-term viability and health of the firm within a reasonable time scale and on the basis of realistic assumptions as to its future operating conditions. Aid for restructuring should therefore normally need to be granted only once.
- (b) Avoidance of undue distortions of competition through the aid. Where there is a structural excess of production capacity, the plan must contribute to the restructuring of the industry by irreversibly reducing or closing capacity.
- (c) Aid in proportion to the restructuring costs and benefits. The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken. If aid is used to write off debt resulting from past losses, any tax credits attaching to the losses must be extinguished.
- (d) Full implementation of restructuring plan and observance of conditions. The company must fully implement the restructuring plan that was submitted to and accepted by the Commission and must discharge any other obligations laid down by the Commission decision;
- (e) Monitoring and annual report. The implementation, progress and success of the restructuring plan will be monitored by requiring the submission of detailed annual reports to the Commission.

Having examined the Santana restructuring plan and its implementation up to March 1996, the Commission has reached the conclusion that the abovementioned general and sectoral requirements are met.

(a) Restoration of viability

The plan expects the firm to become viable again, breaking even in 1996 and returning a profit from 1997 onwards. Results for the first quarter of 1996 are in line with the plan. Results for 1995 fall short of expectations because sales were slightly lower than forecast as a result of the high level of stocks built up during 1994 and the fact that the economic upturn was slower than antici-

pated. Social costs were also higher than estimated in the plan owing to the delay in selling the Manzanares plant to Suzuki (because of uncertainty surrounding the grant of investment aid and disagreements over the price of assets). Losses were also greater than expected owing to the fact that the company has not yet received most of the social aid promised by the Regional Government of Andalusia.

Experts consulted by the Commission are convinced that the company will achieve the other objectives and financial targets laid down in the plan, with special reference to the successful incorporation of more European components and the market response to the new diesel Vitara model. It can therefore be concluded that the assumptions on which the plan is based are valid and that the plan's forecasts with regard to the company's viability are realistic.

(b) Avoidance of undue distortions of competition

The Spanish authorities have stated that Santana is to dismantle the paint shops which are currently idle but constitute potential capacity that could be utilized in future without major new investment. The capacity of these facilities is 21 000 vehicles per year. Remaining production capacity will be 50 000 vehicles per year, which means that the company is reducing total capacity by 30 %. Santana is thereby making a substantial contribution to the restructuring of the motor manufacturing industry in Europe generally and the SUV segment in particular.

It should also be noted that Santana has based its restructuring plan on an average production of 30 000 units, which means that its share of the relevant market in SUVs will be gradually reduced. It is therefore expected that the adverse effects of the restructuring plan on Santana's competitors in the EEA will be limited.

When the IFA loan has been converted into capital and some of the losses have been offset, the company undertakes not to obtain any new tax concessions on the basis of those losses. The same applies to the assistance received as social aid, which can contribute to reducing losses, in particular in 1996.

(c) Aid in proportion to the restructuring

In assessing the compatibility of the aid to Santana, the Commission also has to take account of the fact that the company is located in an area where, in accordance with Article 92 (3) (a), regional aid may be granted up to an intensity of 60 % net. The province of Jaen has an unemployment rate of 35,12 %, as against 33,96 % for the Autonomous Community of Andalusia and 22,77 % for Spain as a whole. Net per capita income in the province

⁽¹⁾ OJ No C 368, 23. 12. 1994, p. 12.

stands at 95 % of that of the Autonomous Community and 66 % of that of Spain as a whole. The area in which the plant is located can therefore be regarded as one of the poorest in the Community and suffering from serious underdevelopment. Closure of the largest firm in the area would have considerable adverse repercussions on the local economy, partly due to the knock-on effects on suppliers in the same area.

Having due regard to the social situation of the region as outlined above and the fact that most of the costs (and the aid) under the plan are linked to the restructuring of the workforce and the small size of the company, which means that it cannot reduce capacity any further without jeopardizing its viability, the aid intensity of 36,3 %, albeit slightly higher than the reduction in capacity (30 %), can be deemed appropriate. In the Volkswagen, Saxony and Mercedes, Ludwigsfelde cases, which also involved plants located in areas covered by Article 92(3)(a), excess assistance was likewise allowed.

In the Commission's opinion, the volume of the aid (Pta 22 012 million) and the intensity (36,3 % of the total restructuring cost) are strictly necessary for the restructuring exercise.

Similarly, the Commission has verified that the measures on which the restructuring is based and for whose implementation the aid will be granted are necessary for the objectives pursued by the restructuring operation as a whole. In the Commission's opinion, the proposed volume of financing for the restructuring is necessary. The amount has been structured logically and represents a realistic effort with a view to re-establishing Santana's viability in the competitive automobile industry.

VII

Conclusions and conditions

To sum up, the Commission considers that the aid granted by the Spanish authorities to Santana satisfies the criteria laid down in the Community guidelines on State aid for rescuing and restructuring firms in difficulty and the Community framework for State aid to the motor vehicle industry.

In accordance with the Guidelines on State aid for rescuing and restructuring firms in difficulty and with its

usual practice in cases of restructuring aid in the motor vehicle industry, the Commission must ensure that its conclusions remain valid until the restructuring plan has been fully implemented. To this end it must make its final favourable decision subject to fulfilment of a number of conditions designed to prevent the aid from having adverse effects on the industry. The trade-distorting effect of the aid depends in part on whether the future restructuring is carried out in accordance with the plan and within the proposed time limit. In particular, the Spanish authorities should ensure that the company closes the idle paint shops by September 1997. In addition, the restructuring plan will have to be applied in full and be monitored. Lastly, no new State aid may be granted to Santana in support of the plan. Similarly, it should be noted that, in accordance with the Community guidelines on State aid for rescuing and restructuring firms in difficulty, restructuring aid must not normally be granted more than once,

HAS ADOPTED THIS DECISION:

Article 1

The aid for the Santana restructuring plan which is set out below is compatible with Article 92(3)(c) of the EC Treaty and with Article 61(3)(c) of the EEA Agreement:

- (a) a loan of Pta 6 800 million granted by the Spanish Instituto de Crédito Oficial (ICO) and paid illegally;
- (b) another loan of Pta 6 800 million granted by the Instituto de Fomento de Andalucía (IFA), a public body owned by the Regional Government of Andalusia, of which Pta 6 716 million was paid illegally. This loan is to be converted into capital;
- (c) social aid to redundant workers, totalling Pta 8 412 million, of which Pta 4 527 million was paid illegally:
 - a preretirement plan involving 348 workers (Pta 3 351 million),
 - an early retirement scheme involving 358 workers (Pta 4 765 million, of which Pta 4 231 million was paid illegally),
 - a voluntary redundancy scheme involving 148 workers (Pta 296 million, paid illegally),

provided that the following conditions are fulfilled.

1. The idle paint shops shall be dismantled by September 1997, as notified to the Commission. There shall be no increase in capacity, which is limited to 50 000 vehicles per year, before 1 January 1998.
2. There shall be no tax concessions in respect of the losses which are offset by the aid (social aid or capital increase).
3. No additional aid in the form of capital injections or discretionary aid shall be granted in support of the restructuring.
4. The Spanish Government shall send the Commission an annual report on the implementation of the restructuring plan, and in particular the evolution of the costs, the receipt of the aid by the company and the fulfilment of the conditions laid down. The report, together with Santana's annual report and accounts,

shall be forwarded by the end of May following the report year.

Article 2

Spain shall inform the Commission, within one month of the notification of this Decision, of the measures taken to comply with it.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 30 July 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

COMMISSION DECISION

of 16 December 1996

approving the measures to be implemented as regards bovine spongiform encephalopathy in France

(Text with EEA relevance)

(97/18/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 9 (4) thereof,

Whereas according to the second subparagraph of Article 9 (1) of Directive 89/662/EEC and the second subparagraph of Article 10 (1) of Directive 90/425/EEC, the Member State of origin shall implement on its territory the appropriate measures to prevent all situations which may constitute a serious hazard to animals or to human health;

Whereas, to protect animal and human health in the Community, the Commission adopted Decision 94/474/EC of 27 July 1994 concerning certain protection measures relating to bovine spongiform encephalopathy and repealing Decisions 89/469/EEC and 90/200/EEC⁽⁴⁾, as last amended by Decision 95/287/EC⁽⁵⁾, Decision 92/290/EEC of 14 May 1992 concerning certain protection measures relating to bovine embryos in respect of bovine spongiform encephalopathy (BSE) in the United Kingdom⁽⁶⁾, as amended by the Act of Accession of Austria, Finland and Sweden, Decision 94/381/EC of 27 June 1994 concerning certain protection measures with regard to bovine spongiform encephalopathy and the feeding of mammalian derived protein⁽⁷⁾, as amended by

Decision 95/60/EC⁽⁸⁾, Decision 94/382/EC of 27 June 1994 on the approval of alternative heat-treatment systems for processing animal waste of ruminant origin, with a view to the inactivation of spongiform encephalopathy agents⁽⁹⁾, as amended by Decision 95/29/EC⁽¹⁰⁾, Decision 96/239/EC of 27 March 1996 on emergency measures to protect against bovine spongiform encephalopathy⁽¹¹⁾, as amended by Decision 96/362/EC⁽¹²⁾ and Decision 96/449/EC on the approval of alternative heat-treatment systems for processing animal waste with a view to the inactivation of spongiform encephalopathy agents⁽¹³⁾;

Whereas on the publication in March 1996 of new information on certain cases of Creutzfeldt-Jakob disease where the link to BSE could not be ruled out, Community institutions have recognized that decisive action must be taken in order to control and finally eradicate BSE;

Whereas France has had cases of BSE in its native cattle;

Whereas in July 1996 France presented to the Commission a plan laying down supplementary measures to control and eradicate BSE in France, hereafter referred to as 'the plan';

Whereas the principal elements of the plan are:

- (a) compulsory slaughter and destruction of suspect cases of BSE and, if confirmed, slaughter and destruction of all animals in herds where cases of BSE have occurred,
- (b) identification of animals exposed to the same risks as the affected animals,
- (c) an improved system of health monitoring of holdings with bovine animals,
- (d) measures to exclude high-risk tissues from the food and feed chains;

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 29.

⁽²⁾ OJ No L 62, 15. 3. 1993, p. 49.

⁽³⁾ OJ No L 395, 30. 12. 1989, p. 13.

⁽⁴⁾ OJ No L 194, 29. 7. 1994, p. 96.

⁽⁵⁾ OJ No L 181, 1. 8. 1995, p. 40.

⁽⁶⁾ OJ No L 152, 4. 6. 1992, p. 37.

⁽⁷⁾ OJ No L 172, 7. 7. 1994, p. 23.

⁽⁸⁾ OJ No L 55, 11. 3. 1995, p. 43.

⁽⁹⁾ OJ No L 172, 7. 7. 1994, p. 25.

⁽¹⁰⁾ OJ No L 38, 18. 2. 1995, p. 17.

⁽¹¹⁾ OJ No L 78, 28. 3. 1996, p. 47.

⁽¹²⁾ OJ No L 139, 12. 6. 1996, p. 17.

⁽¹³⁾ OJ No L 184, 24. 7. 1996, p. 43.

Whereas a programme to control BSE and reduce the number of future cases should concentrate on removal of animals most likely to have been exposed to infected meat- and bone-meal in accordance with the principle laid down in point 6 of the conclusions of the Council meeting on 1 to 3 April 1996;

Whereas the Council concluded that such an option should be open to Member States other than the United Kingdom on a case-by-case basis;

Whereas the French authorities will carry out a full epidemiological inquiry on each case of BSE in order to identify other animals likely to have been exposed to infected meat-and bone-meal and will slaughter such animals and destroy the carcasses; this inquiry will include animals which may have been moved to other holdings;

Whereas consequently the Commission can accept that the French programme for the eradication of BSE can be financed with a Community contribution on the basis of the same principles and in accordance with the same procedure as laid down in points 8 and 9 of the conclusions of the Council meeting of 1 to 3 April 1996;

Whereas the Commission in accordance with point 9 of those Council conclusions has adopted Regulation (EC) No 716/96⁽¹⁾, as last amended by Regulation (EC) No 1974/96⁽²⁾ and Regulation EC No 717/96⁽³⁾, as amended by Regulation EC No 841/96⁽⁴⁾ in order to provide market support;

Whereas a similar measure will be proposed for financial assistance to France for the present plan;

Whereas the plan presented on 9 July as amended on 5 November 1996 will contribute to a reduction in the number of BSE cases and increase the controls relating to the disease, and it should therefore be approved;

Whereas the Commission should carry out Community inspections in France to verify the application of the measures provided for in this Decision;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The plan regarding bovine spongiform encephalopathy presented in July 1996 as amended on 5 November 1996 by France is hereby approved.

Article 2

France shall bring into force by 1 December 1996 the laws, regulations and administrative provisions necessary to implement the plan referred to in Article 1.

Article 3

1. France will notify the Commission of any intentions to modify the plan referred to in Article 1.
2. This decision shall be re-examined as soon as possible following a notification as provided for in paragraph 1.

Article 4

The Commission shall carry out Community inspections on the spot in France to verify the effective implementation of the plan.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 16 December 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 99, 20. 4. 1996, p. 14.

⁽²⁾ OJ No L 262, 16. 10. 1996, p. 2.

⁽³⁾ OJ No L 99, 20. 4. 1996, p. 16.

⁽⁴⁾ OJ No L 114, 8. 5. 1996, p. 18.

COMMISSION DECISION

of 16 December 1996

approving the technical action plan 1996/97 for the improvement of agricultural statistics

(Text with EEA relevance)

(97/19/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 96/411/EC of 25 June 1996 on improving Community agricultural statistics⁽¹⁾ and, in particular Article 4 (1) thereof,

Whereas, according to Article 4 (1), the Commission shall establish each year, according to the procedure provided for in Article 10, a technical action plan for agricultural statistics;

Whereas, in order to ensure as from the end of 1996 the implementation of Council Decision 96/411/EC, it is advisable to break up in three parts the technical action plan for 1996/97, the first two parts of which can be decided without delay;

Whereas the 1996/97 technical action plan (first and second parts) has been drawn up on the basis of the priorities of the Commission as regards statistical needs, as well as of the proposals submitted by the Member States;

Whereas the actions envisaged in this plan are among the statistical fields where there are new or increasing needs appearing in Annex II to Council Decision 96/411/EC;

Whereas, in accordance with Article 6 of Council Decision 96/411/EC, the Community contributes financially

to the expenditure incurred by each Member State for the adaptations of the national systems or for preparatory work connected with new or increasing needs carried out under a technical action plan;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Agricultural Statistics,

HAS ADOPTED THIS DECISION:

Article 1

The 1996/97 technical action plan for the improvement of agricultural statistics is approved.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 16 December 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 162, 1. 7. 1996, p. 14.

COMMISSION DECISION

of 17 December 1996

establishing the list of third countries fulfilling the equivalence conditions for the production and placing on the market of bivalve molluscs, echinoderms, tunicates and marine gastropods

(Text with EEA relevance)

(97/20/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and placing on the market of live bivalve molluscs⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 9 (3) (a) thereof,

Whereas the Commission has laid down the special conditions governing imports of live bivalve molluscs, echinoderms, tunicates and marine gastropods for specific third countries;

Whereas the Commission has laid down a standard health certificate for imports of live bivalve molluscs, echinoderms, tunicates and marine gastropods from third countries not yet covered by decisions of this type;

Whereas a list should be drawn up of the countries fulfilling the equivalence conditions referred to in Article 9 (2) of Directive 91/492/EEC and which are thus able to guarantee that the molluscs exported to the Community meet the sanitary conditions laid down to protect the health of consumers;

Whereas this list must include the third countries for which specific decisions have already been laid down and third countries satisfying the conditions of Article 9 (2) for which a provisional list of authorized establishments can be established in accordance with the procedure provided for in Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorized to import certain products of animal origin, fishery products or live bivalve molluscs⁽²⁾;

Whereas Article 3 (4) (b) of Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and placing on the market of fishery products⁽³⁾ lays down that processed bivalve molluscs must comply before processing with the provi-

sions of Directive 91/492/EEC; whereas as a consequence the list of third countries fulfilling the conditions laid down by Directive 91/492/EEC should also apply to imports of processed bivalve molluscs, echinoderms, tunicates and marine gastropods;

Whereas this list of third countries is established without prejudice to national or Community provisions to protect animal health or the environment;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The third countries fulfilling the equivalence conditions laid down in Article 9 (3) (a) of Directive 91/492/EEC on the production and placing on the market of live bivalve molluscs, echinoderms, tunicates and marine gastropods are listed in the Annex to this Decision.

Article 2

Notwithstanding the provisions designed to protect animal health or the environment, the Member States shall ensure that bivalve molluscs, echinoderms, tunicates and marine gastropods in whatever form for consumption are imported only from the third countries listed in the Annex.

Article 3

The provisions of Article 2 shall not apply to the adductor muscles of *pectinidae* other than aquaculture animals completely separated from the viscera and gonads.

Article 4

This Decision shall apply from 1 July 1997.

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 1.

⁽²⁾ OJ No L 243, 11. 10. 1995, p. 17.

⁽³⁾ OJ No L 268, 24. 9. 1991, p. 15.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 December 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

List of third countries from which imports of bivalve molluscs, echinoderms, tunicates and marine gastropods in whatever form for consumption are authorized

I. Third countries which have been the subject of a specific decision based on Council Directive 91/492/EEC:

- Morocco
- Turkey
- Peru
- South Korea
- Chile

II. Third countries which may be the subject of a provisional decision based on Council Directive 95/408/EC

- Canada
 - Faeroes
 - New Zealand
 - United States of America
 - Greenland
-