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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 686/97
of 14 April 1997
amending Regulation (EEC) No 2847/93 establishing a control system applicable
to the common fisheries policy

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

Whereas fishstocks have been overexploited in recent years and therefore significant efforts on surveillance and control of fishing activities are required to remedy this situation;

Whereas there is a need to use cost-effective measures and to improve availability and accuracy of effort data, such as by introducing satellite based vessel monitoring systems;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2847/93 ⁽³⁾, the Council can decide for a continuous position monitoring system to be established for Community fishing vessels;

Whereas experience gained in the application of pilot projects carried out by the Member States in accordance with Commission Regulation (EC) No 897/94 of 22 April 1994 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards pilot projects relating to continuous position monitoring of Community fishing vessels ⁽⁴⁾, has demonstrated that several satellite-based vessel monitoring systems can be used to determine the position of fishing vessels;

Whereas satellite-based continuous monitoring of certain categories of Community fishing vessels will improve effort management, surveillance of sensitive areas, cross-checking of logbooks, and monitoring of landings;

Whereas the satellite-based vessel monitoring system shall apply to Community fishing vessels operating in third country waters only in the case where the third country or countries in question have accepted the obligation to apply a satellite-based vessel monitoring system to their vessels operating in the waters of the Community;

Whereas it is appropriate to except from the obligation to apply a satellite-based vessel monitoring system certain Community vessels operating exclusively in coastal and short-trip fisheries;

Whereas the satellite-based vessel monitoring system shall ensure that communications from Community vessels are received by the flag State and the coastal Member State simultaneously;

Whereas it is appropriate to provide for the possibility of alternative systems to the satellite-based vessel monitoring system; whereas a Member State requesting this possibility must prove that the alternative system is as effective as the satellite-based vessel monitoring system,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 of Regulation (EEC) No 2847/93 shall be replaced by the following:

Article 3

1. Each Member State shall establish a satellite-based vessel monitoring system, hereinafter referred to as "VMS", to monitor the position of Community fishing vessels.

The VMS shall apply no later than 30 June 1998 to all Community fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length belonging to any one of the following categories:

⁽¹⁾ OJ No C 209, 20. 7. 1996, p. 7.

⁽²⁾ OJ No C 20, 20. 1. 1997.

⁽³⁾ OJ No L 261, 20. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2489/96 (OJ No L 338, 28. 12. 1996, p. 12).

⁽⁴⁾ OJ No L 104, 23. 4. 1994, p. 18. Regulation as amended by Regulation (EC) No 376/96 (OJ No L 51, 1. 3. 1996, p. 31).

- vessels operating on the high seas, except in the Mediterranean Sea,
- vessels operating in the waters of third countries, provided that provisions have been made in Agreements with the relevant third country or countries for the application of a VMS to the vessels of such country or countries operating in the waters of the Community,
- vessels catching fish for reduction to meal and oil.

2. The VMS shall apply no later than 1 January 2000 to all Community fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length wherever they operate. However, only in the situation where a third country or countries have accepted the obligation to apply a VMS to their vessels operating in the waters of the Community, shall Community fishing vessels operating in the waters of such third country or countries be subject to the application of a VMS.

3. Notwithstanding the provisions of paragraphs 1 and 2 above, the VMS shall not apply to vessels:

- (a) operating exclusively within 12 nautical miles of the baseline of the flag Member State; or
- (b) which never spend more than 24 hours at sea taken from the time of departure to the return to port.

4. When a Member State imposes VMS on vessels flying its flag and not falling within the scope of paragraphs 1 to 3, those vessels will be eligible for the same financial support as is applicable for vessels applying VMS under paragraphs 1 and 2.

5. Member States shall ensure that satellite-tracking devices be installed and be fully operational on Community fishing vessels flying their flag to which VMS shall apply. The satellite-tracking device shall enable a fishing vessel to communicate by satellite to the flag State and the coastal Member State concerned simultaneously, its geographical position and where applicable the effort reports referred to in Article 19b. In the case of *force majeure* relevant information shall be communicated by radio via a radio station approved under Community rules for the reception of

such information or by the means specified in Article 19c.

6. The masters of the Community fishing vessels to which VMS applies shall ensure that the satellite-tracking devices are at any time fully operational and that the information referred to in paragraph 5 is transmitted. Transmission shall be carried out at the required daily frequency to ensure that the flag Member State and/or the coastal Member State can effectively monitor the vessels.

7. Member States shall establish and operate fisheries monitoring centres, hereinafter referred to as "FMC", which shall monitor fishing activities and fishing effort. The FMC shall be operational no later than 30 June 1998.

The FMC of a particular Member State shall monitor the fishing vessels flying its flag, regardless of the waters in which they are operating or the port they are in, as well as Community fishing vessels flying the flag of other Member States and fishing vessels of third countries to which a VMS applies operating in the waters under the sovereignty or the jurisdiction of that particular Member State.

8. Each flag Member State shall appoint the competent authorities responsible for the FMC and shall take the appropriate measures to ensure that its FMC has the proper staffing resources and is equipped with computer hardware and software enabling automatic data processing and electronic data transmission. Member States shall provide for back-up and recovery procedures in case of system failure.

Member States may operate a joint FMC.

9. The flag Member State shall take the necessary measures to ensure that the data received from its fishing vessels to which a VMS applies are recorded in computer-readable form for a period of three years.

The coastal Member State shall take the necessary measures to ensure that the data received from fishing vessels flying the flag of another Member State or of a third country to which a VMS applies are recorded in computer-readable form for a period of three years.

The Commission shall have access to these computer files on the basis of a specific request. The provisions of Article 37 shall apply.

10. Detailed rules for the implementation of this Article shall be decided in accordance with the procedure laid down in Article 36.

In particular, on the basis of an application by a Member State and in accordance with the provisions of Article 36, the Commission may decide that an alternative system to VMS may be applied, taking into account the type of monitoring system proposed, the type of fishing vessel or vessels, the area or areas

fished, the targeted species and the duration of the fishing trips. The alternative system must be as effective as a VMS and apply on a non-discriminatory basis.'

Article 2

This Regulation shall enter into force on the seventh day following that 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 Luxembourg, 14 April 1997.

For the Council

The President

J. VAN AARTSEN

COMMISSION REGULATION (EC) No 687/97
of 18 April 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 (11) thereof,

Whereas Commission Regulation (EC) No 2190/96 ⁽²⁾, as last amended by Regulation (EC) No 610/97 ⁽³⁾, lays down detailed rules on export refunds on fruit and vegetables;

Whereas Article 35 (1) of Council Regulation (EC) No 2200/96, 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 35 (4) of Regulation (EC) No 2200/96 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 35 (1) of Regulation (EC) No 2200/96, 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 35 (5) of Regulation (EC) No 2200/96, 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, peaches and nectarine, 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 ⁽⁴⁾, as last amended by Regulation (EC) No 150/95 ⁽⁵⁾, 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 ⁽⁶⁾, as last amended by Regulation (EC) No 1482/96 ⁽⁷⁾;

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 35 (2) of Regulation (EC) No 2200/96, 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 Commission Regulation (EEC) No 3846/87 ⁽⁸⁾, as last amended by Regulation (EC) No 2230/96 ⁽⁹⁾, establishes an agricultural product nomenclature for export refunds;

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.
⁽²⁾ OJ No L 292, 15. 11. 1996, p. 12.
⁽³⁾ OJ No L 93, 8. 4. 1997, p. 16.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.
⁽⁵⁾ OJ No L 22, 31. 1. 1995, p. 1.
⁽⁶⁾ OJ No L 108, 1. 5. 1993, p. 106.
⁽⁷⁾ OJ No L 188, 27. 7. 1996, p. 22.
⁽⁸⁾ OJ No L 366, 24. 12. 1987, p. 1.
⁽⁹⁾ OJ No L 305, 27. 11. 1996, p. 1.

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 certain destination and consequently refunds under the A1 and A2 licence arrangements referred to in Article 1 of Regulation (EC) No 2190/96 should not be fixed simultaneously for the export period in question;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds on fruit and vegetables shall be as set out in the Annex hereto.
2. Quantities covered by licences issued for food aid as referred to in Article 14a of Commission Regulation (EEC) No 3719/88 ⁽¹⁾, 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.

Article 2

This Regulation shall enter into force on 29 April 1997.

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

Done at Brussels, 18 April 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 amended)	Product code	A1 applications from 29. 4. 1997 to 23. 6. 1997			A2 applications from 30. 4. 1997 to 6. 5. 1997			B Export period from 6. 5. 1997 to 30. 6. 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	14 215						
Shelled almonds	0802 12 90 9000	F	77,9	455				F	77,9	298
Hazelnuts in shell	0802 21 00 9000	F	91,0	13				F	91,0	8
Shelled hazelnuts	0802 22 00 9000	F	175,6	718				F	175,6	470
Walnuts in shell	0802 31 00 9000	F	112,9	2						
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	100,0		XYC	100,0	11 449			
Lemons	0805 30 20 9100 0805 30 30 9100 0805 30 40 9100	F	108,7	18 811				F	108,7	3 966

Product (Full definitions of eligible products are given in the 'Fruit and vegetables' section of Commission Regulation (EEC) No 3846/87 amended)	Product code	A1 applications from 29. 4. 1997 to 23. 6. 1997			A2 applications from 30. 4. 1997 to 6. 5. 1997			B Export period from 6. 5. 1997 to 30. 6. 1997		
		Destination or destination group (*)	Refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)	Destination or destination group (*)	Indicative refund rate (ECU/tonnes net weight)	Indicative quantity (tonnes)	Destination or destination group (*)	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	13						
Apples	0808 10 51 9910	X	25,0		X	25,0	2 605			
	0808 10 53 9910									
	0808 10 59 9910									
	0808 10 61 9910	Y	10,0		Y	10,0	1 682			
	0808 10 63 9910									
	0808 10 69 9910									
	0808 10 71 9910	Z	56,0	1 085						
	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	392				E	40,2	257

(*) 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 688/97

of 18 April 1997

concerning tenders submitted in response to the invitation to tender for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 531/97

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, and in particular Article 10 (1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽²⁾, and in particular Article 9 (1) thereof,

Whereas Commission Regulation (EC) No 531/97 ⁽³⁾ opens an invitation to tender for the subsidy on rice exported to Réunion;

Whereas Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award;

Whereas on the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed;

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

No action shall be taken on the tenders submitted from 11 to 17 April 1997 in response to the invitation to tender referred to in Regulation (EC) No 531/97 for the subsidy on exports to Réunion of husked long grain rice falling within CN code 1 006 20 98.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 261, 7. 9. 1989, p. 8.

⁽³⁾ OJ No L 82, 22. 3. 1997, p. 50.

COMMISSION REGULATION (EC) No 689/97**of 18 April 1997****fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 530/97**

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, and in particular Article 13 (3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 530/97 ⁽²⁾;

Whereas, Article 5 of Commission Regulation (EEC) No 584/75 ⁽³⁾, as last amended by Regulation (EC) No 299/95 ⁽⁴⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question

results in the maximum export refund being fixed at the amount specified in Article 1;

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 maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 530/97 is hereby fixed on the basis of the tenders submitted from 11 to 17 April 1997 at ECU 390 per tonne.

Article 2

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

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 82, 22. 3. 1997, p. 48.

⁽³⁾ OJ No L 61, 7. 3. 1975, p. 25.

⁽⁴⁾ OJ No L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 690/97

of 18 April 1997

determining the extent to which applications lodged in April 1997 for certain milk and milk products covered by the arrangements provided for in the free-trade Agreements concluded by the Community with the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1713/95 of 13 July 1995 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Association Agreements between the Community and the Baltic States⁽¹⁾, as last amended by Regulation (EC) No 2389/96⁽²⁾, and in particular Article 4 (4) thereof,

Whereas the applications for import licences lodged for the products referred to in Regulation (EC) No 1713/95 concern quantities greater than those available for certain products; whereas, therefore, reduction percentages should be fixed for certain of the quantities applied for the period 1 April to 30 June,

Article 1

Applications for import licences for products falling within the CN codes listed in the Annex hereto, lodged under Regulation (EC) No 1713/95 for the period 1 April to 30 June 1997 shall be accepted, per country of origin, up to the percentages indicated.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 163, 14. 7. 1995, p. 5.

⁽²⁾ OJ No L 326, 17. 12. 1996, p. 24.

ANNEX

Country	Republic of Estonia			Republic of Latvia			Republic of Lithuania				
CN codes	0402 10 19 0402 21 19	0405 10 11 0405 10 19 Butter	0406 Cheeses	0402 10 19 0402 21 19	0405 10 Butter	0406	ex 0402 29	0402 10 19 0402 21 19	0405 10 11 0405 10 19 Butter	0406	0402 99 11
in %	1,245	1,762	100,000	3,809	4,651	6,344	40,000	1,322	1,559	37,619	100,000

COMMISSION REGULATION (EC) No 691/97

of 18 April 1997

amending Regulations (EEC) No 2698/93, (EC) No 1590/94 and (EC) No 2305/95
in the pigmeat sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 2490/96⁽²⁾, and in particular Article 8 thereof,

Whereas concessions for certain pigmeat products were granted pursuant to Commission Regulation (EEC) No 2698/93 of 30 September 1993 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for in the Interim Agreements between the European Economic Community and the Republic of Poland, the Republic of Hungary and the former Czech and Slovak Federal Republic⁽³⁾, as last amended by Regulation (EC) No 2502/96⁽⁴⁾, Commission Regulation (EC) No 1590/94 of 30 June 1994 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for in the Interim Agreement between the Community and Bulgaria and Romania⁽⁵⁾, as last amended by Regulation (EC) No 2502/96, and Commission Regulation (EC) No 2305/95 of 29 September 1995 establishing detailed rules for the application in the pigmeat sector of the arrangements provided for in the free trade agreements between the Community, of the one part, and Estonia, Latvia and Lithuania, of the other

part⁽⁶⁾, as last amended by Regulation (EC) No 2071/97⁽⁷⁾;

Whereas the provision laying down that the reduction in the customs duty shall be that in force on the day of submission of the export licence application has, in certain cases, limited access to the Community market for pigmeat products; whereas, in order to facilitate the preferential access to the Community market given to the associated countries of central Europe and the Baltic States, the final subparagraph of Article 1 of Regulations (EEC) No 2698/93, (EC) No 1590/94 and (EC) No 2305/95 should be deleted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The final subparagraph of Article 1 of Regulation (EEC) No 2698/93 is hereby deleted.

Article 2

The final subparagraph of Article 1 of Regulation (EC) No 1590/94 is hereby deleted.

Article 3

The final subparagraph of Article 1 of Regulation (EC) No 2305/95 is hereby deleted.

Article 4

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

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

⁽³⁾ OJ No L 245, 1. 10. 1993, p. 80.

⁽⁴⁾ OJ No L 338, 28. 12. 1996, p. 71.

⁽⁵⁾ OJ No L 167, 1. 7. 1994, p. 16.

⁽⁶⁾ OJ No L 233, 30. 9. 1995, p. 45.

⁽⁷⁾ OJ No L 277, 30. 10. 1996, p. 17.

COMMISSION REGULATION (EC) No 692/97
of 18 April 1997

**amending Regulation (EEC) No 1318/93 on detailed rules for the application of
Council Regulation (EEC) No 2067/92 on measures to promote and market
quality beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2067/92 of 30 June 1992 on measures to promote and market quality beef and veal⁽¹⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 1318/93 of 28 May 1993⁽²⁾, as last amended by Regulation (EC) No 623/97⁽³⁾, lays down detailed rules for the application of Regulation (EEC) No 2067/92 and in particular the minimum requirements governing production, quality and controls of products covered by the promotion and marketing measures; whereas in particular the application of the minimum requirements on pH and maturing should apply solely to adult bovine animals as the quality of veal is not affected by those criteria; whereas Annex I to Regulation (EEC) No 1318/93 should be amended accordingly;

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

Done at Brussels, 18 April 1997.

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

In Annex I to Regulation (EEC) No 1318/93:

1. The point headed 'pH' in the section 'Slaughter' is hereby replaced by the following:

'pH

Except in the case of calves for slaughter, less than 6'.

2. The point headed 'Maturing' in the section 'Marketing' is hereby replaced by the following:

'Maturing:

Except in the case of calves for slaughter, at least seven days from slaughter to placing on sale to the consumer'.

Article 2

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 57.

⁽²⁾ OJ No L 132, 29. 5. 1993, p. 83.

⁽³⁾ OJ No L 95, 10. 4. 1997, p. 6.

**COMMISSION REGULATION (EC) No 693/97
of 18 April 1997**

initiating an investigation concerning the alleged circumvention of Council Regulation (EC) No 1490/96 on imports of polyester staple fibre originating in Belarus by imports of synthetic filament tow of polyester for conversion in the European Community and making the latter imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST

- (1) The Commission has received a request pursuant to Article 13 (3) of Council Regulation (EC) No 384/96 (hereafter 'the Basic Regulation'):

- to investigate the alleged circumvention of the anti-dumping duties, imposed by Council Regulation (EC) No 1490/96⁽³⁾ on imports of polyester staple fibre (hereafter 'PSF') originating in Belarus, by imports of polyester filament tow (hereafter 'PFT') originating in Belarus which would subsequently be converted in the Community into PSF,
- to make imports of such PFT subject to registration by the customs authorities pursuant to Article 14 (5) of the Basic Regulation, and
- to propose to the Council the extension, where justified, of the above anti-dumping duties to imports of this PFT.

B. APPLICANTS

- (2) The request was lodged on 4 March 1997 by the International Committee of Rayon and Synthetic Fibres (CIRFS) on behalf of Community producers

whose collective output is alleged to represent over 90 % of the total Community production of PSF.

C. PRODUCT

- (3) The like product, through the importation and conversion of which the alleged circumvention is taking place, is PFT, falling within CN code 5501 20 00, which is used for conversion in the Community into PSF which is currently classifiable within CN code 5503 20 00. The request alleges that this conversion consists of a simple process of mechanical cutting of PFT into PSF and that the PFT originating in Belarus is exclusively used for conversion into PSF. The CN codes mentioned are given for information only and have no binding effect on the classification of the products.

D. EVIDENCE

- (4) The request contains sufficient evidence, in accordance with Article 13 of the Basic Regulation, that the anti-dumping measures on imports of PSF originating in Belarus are being circumvented by means of imports of PFT originating in this country which are used in conversion operations in the Community which could be characterized as practices for which there seems to be insufficient due cause or economic justification other than the imposition of the anti-dumping duty.
- (5) The evidence is as follows:
- (a) A clear change has taken place in the pattern of trade between Belarus and the Community, particularly since March 1996 when the provisional anti-dumping measures on PSF from Belarus entered into force. In this respect, the request points out that imports into the Community of PSF from Belarus decreased from 3 979 tonnes in the period January to February 1996 to 338 tonnes in the period March to August 1996 (i.e. a decrease of 91,5 %), whereas during the same periods imports of PFT from Belarus increased from 99 tonnes to 2 943 tonnes (i.e. an increase of

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ No L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ No L 189, 30. 7. 1996, p. 13.

2 873 %). The imposition of anti-dumping measures would therefore appear to have led to a clear substitution of imports of PSF by imports of PFT.

This change in the pattern of trade is alleged to stem from the conversion in the Community of PFT into PSF, consisting essentially of a simple cutting operation, for which there is insufficient due cause or economic justification, apart from the existence of the anti-dumping duty of 43,5 % on imports of PSF originating in Belarus. As is pointed out in the request, the extra cost incurred by converting PFT into PSF in the Community rather than conducting this operation in an integrated process is not offset by any cost savings but is even compounded because of the relatively high labour cost in the Community.

- (b) Furthermore, the request contains evidence which shows that the prices at which PSF resulting from conversion in the Community of PFT imported from Belarus are being sold in the Community, are lower than the non-dumped level of the export price established in the anti-dumping investigation for PSF from Belarus.
- (c) Finally, the request contains evidence which shows that the conversion operations of PFT are undermining the remedial effects of the existing antidumping duties on PSF in terms of quantities and prices.

E. PROCEDURE

- (6) In the light of the evidence contained in the request, the Commission has concluded that, pursuant to Article 13 (3) of the Basic Regulation, sufficient evidence exists to justify the initiation of an investigation and to make imports of PFT subject to registration.

(i) Questionnaires

- (7) In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the importers, traders and converters of PFT in the Community named in the request. Information, as appropriate, may also be sought from Community producers.
- (8) Other interested parties which can show that they are likely to be affected by the outcome of the investigation, should request a questionnaire from the Commission within 15 days of publication of this Regulation in the *Official Journal of the European Communities*. Any request for questionnaires must be made in writing to the address mentioned below, and should indicate the name,

address, telephone and fax numbers of the requesting party.

The authorities of Belarus will be notified of the initiation of the investigation and provided with a copy of the request.

(ii) Certificates of non-circumvention

- (9) In accordance with Article 13 (4) of the Basic Regulation, certificates exempting the imports of the product concerned from registration or measures may be issued by the customs authorities to importers when the importation does not constitute circumvention.

Since the issue of this certificate requires the prior authorization of the Community institutions, requests for such authorizations should be addressed by interested importers to the Commission as early as possible in the course of the investigation so that they may be considered on the basis of a thorough appraisal of their merits.

F. TIME LIMIT

- (10) In the interest of sound administration, a period should be fixed within which interested parties, provided they can show that they are likely to be affected by the results of the investigation, may make their views known in writing. A period should also be fixed within which interested parties may make a written request for a hearing and show that there are particular reasons why they should be heard.

Furthermore, it should be stated that, in cases in which any interested party refuses access to, or otherwise does not provide necessary information within the time limit, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation, pursuant to Article 13 of Regulation (EC) No 384/96, concerning imports into the Community of synthetic filament tow of polyester, currently classifiable within CN code 5501 20 00, originating in Belarus, which is used for conversion in the Community into polyester staple fibre, is hereby initiated.

Article 2

The customs authorities are hereby directed, pursuant to Article 13 (3) and Article 14 (5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community of synthetic filament tow of polyester, currently classifiable within CN code

5501 20 00, originating in Belarus in order to ensure that, should the anti-dumping duties applicable to imports of polyester staple fibre originating in Belarus be extended to imports of synthetic filament tow of polyester, they may be collected from the date of such registration.

Registration shall expire nine months following the date of entry into force of this Regulation.

Imports shall not be subject to registration where they are accompanied by a customs certificate issued in accordance with Article 13 (4) of Regulation (EC) No 384/96.

Article 3

1. All interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in writing, submit information and apply to be heard by the Commission within 40 days from the date of publication of this Regulation in the *Official Journal of the European Communities*. This time limit applies to all interested parties, including the parties not named in the

request, and it is consequently in the interest of these parties to contact the Commission without delay.

2. Questionnaires should be requested from the Commission within 15 days of publication of this Regulation in the *Official Journal of the European Communities*.

3. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for authorization of certificates of non-circumvention should be sent to the following address:

European Commission,
Directorate-General for External Relations: Commercial Policy and Relations with North America, the Far East, Australia and New Zealand,
Directorate I-C,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels (1).

Article 4

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

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

Done at Brussels, 18 April 1997.

For the Commission

Leon BRITTAN

Vice-President

(1) Fax: +(32-2) 295 65 05.

COMMISSION REGULATION (EC) No 694/97

of 18 April 1997

determining the extent to which applications lodged in April 1997 for import certificates for certain cheeses covered by the arrangements provided for in the Europe Agreements concluded by the Community with Bulgaria and Romania can be accepted

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

Having regard to Commission Regulation (EC) No 1588/94 of 30 June 1994 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Interim Agreements between the Community of the one part, and Bulgaria and Romania of the other part⁽¹⁾, as last amended by Regulation (EC) No 579/97⁽²⁾, and in particular Article 4 (4) thereof,

Whereas applications for import licences lodged for the products referred to in Regulation (EC) No 1588/94 concern quantities greater than those available for certain products; whereas, therefore, reduction percentages should

be fixed for certain of the quantities applied for the period 1 April to 30 June 1997,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences for products falling within CN codes listed in the Annex hereto, lodged pursuant to Regulation (EC) No 1588/94 for the period 1 April to 30 June 1997, shall be accepted, per country of origin, up to the percentages indicated.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 167, 1. 7. 1994, p. 8.

⁽²⁾ OJ No L 87, 2. 4. 1997, p. 8.

ANNEX

B.1. Reduction in the rate of customs duty: 80 %

Country	CN codes and products	%
Romania	ex 0406 90 29 ⁽¹⁾ ex 0406 90 86 ⁽¹⁾ ex 0406 90 87 ⁽¹⁾ ex 0406 90 88 ⁽¹⁾	100,000
Bulgaria	ex 0406 90 86 ⁽²⁾ ex 0406 90 87 ⁽²⁾ ex 0406 90 88 ⁽²⁾ ex 0406 90 29 ⁽³⁾	46,600

⁽¹⁾ Manufactured from cows' milk.

⁽²⁾ White brined cheese of cows' milk.

⁽³⁾ Kashkaval Vitosha, made from cows' milk.

B.2. Free of customs duties

Country	CN codes and products	%
Bulgaria	ex 0406 90 31 ⁽¹⁾ ex 0406 90 50 ⁽¹⁾ ex 0406 90 86 ⁽¹⁾ ex 0406 90 87 ⁽¹⁾ ex 0406 90 88 ⁽¹⁾	29,483

⁽¹⁾ Cheese other cheese of cows' milk.

COMMISSION REGULATION (EC) No 695/97

of 18 April 1997

determining the extent to which applications lodged in the second quarter of 1997 for import licences for certain milk products and milk products covered by the arrangements provided for in the Interim Agreement concluded by the Community with the Republic of Slovenia can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 455/97 of 10 March 1997 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Interim Agreement between the Community and the Republic of Slovenia⁽¹⁾, and in particular Article 4 (4) thereof,

Whereas applications for import licences lodged for the products referred to in Regulation (EC) No 455/97 concern quantities greater than those available for certain products; whereas, therefore, reduction percentages should be fixed for certain of the quantities applied for the period 1 January to 30 June 1997,

Article 1

Applications for import licences for products falling within the CN codes listed in the Annex hereto, lodged pursuant to Regulation (EC) No 455/97 for the period 1 January to 30 June 1997, shall be accepted up to the percentages indicated.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 69, 11. 3. 1997, p. 7.

ANNEX

CN code and product	0402 10 0402 21	0403 10 Yoghurts	0406 90 other cheeses
in %	80	100	100

COMMISSION REGULATION (EC) No 696/97

of 18 April 1997

providing for the rejection of applications for export licences in relation to
certain processed products and cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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⁾,

Having regard to Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice⁽³⁾, as last amended by Regulation (EC) No 1527/96⁽⁴⁾, and in particular Article 7 (3) thereof,

Whereas the quantity covered by applications for advance fixing of refunds on potato starch and wheat and maize products is of great importance and could give rise to speculation;

Whereas it has therefore been decided to reject all applications for export licences of such products made on 16 and 17 April 1997,

Article 1

In accordance with Article 7 (3) of Regulation (EC) No 1162/95, applications for export licences with advance fixing of refunds for products falling within CN codes 1102 20 10, 1102 20 90, 1103 13 10, 1103 13 90, 1104 23 10, 1108 11 00, 1108 12 00, 1108 13 00, 1702 30 51, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 79, 2106 90 55, 2309 10 11, 2309 10 13, 2309 10 31, 2309 10 33, 2309 10 51, 2309 10 53, 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51, 2309 90 53 made on 16 and 17 April 1997 shall be rejected.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 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 117, 24. 5. 1995, p. 2.
⁽⁴⁾ OJ No L 190, 31. 7. 1996, p. 23.

**COMMISSION REGULATION (EC) No 697/97
of 18 April 1997**

**determining the extent to which the applications for import licences submitted
in April 1997 for certain dairy products under certain tariff quotas opened by
Regulation (EC) No 1600/95 can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1600/95 of 30 June 1995 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products⁽¹⁾, as last amended by Regulation (EC) No 503/97⁽²⁾, and in particular Article 14 (4) thereof,

Whereas applications lodged for the products referred to in Annex II of Regulation (EC) No 1600/95 concern quantities greater than those available; whereas, therefore, the allocation factors should be fixed for the quantities applied for the period 1 April to 30 June 1997,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for for products falling within the order numbers in Annex II to Regulation (EC) No 1600/95 listed in the Annex hereto, lodged under Regulation (EC) No 1600/95 for the period 1 April to 30 June 1997, shall be awarded in accordance with the allocation factors indicated.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 151, 1. 7. 1995, p. 12.

⁽²⁾ OJ No L 78, 20. 3. 1997, p. 12.

ANNEX

Order number in Annex II to Regulation (EC) No 1600/95	Allocation factor
37	0,0076
38	0,0038
40	0,0374
41	0,0071
42	0,0195
43	0,0090
45	0,0046
48	0,0033

**COMMISSION REGULATION (EC) No 698/97
of 18 April 1997**

determining the extent to which applications lodged in April 1997 for import licences for certain milk products and products covered by the arrangements provided for in the Europe Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic can be accepted

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

Having regard to Commission Regulation (EEC) No 584/92 of 6 March 1992 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Europe Agreements between the Community and the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic ⁽¹⁾, as last amended by Regulation (EC) No 528/97 ⁽²⁾ and in particular Article 4 (5) thereof,

Whereas applications for import licences lodged for the products referred to in Regulation (EEC) No 584/92 concern quantities greater than those available for certain products; whereas, therefore, reduction percentages should

be fixed for certain of the quantities applied for the period 1 April to 30 June 1997,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences for products falling within the CN codes listed in the Annex hereto, lodged pursuant to Regulation (EEC) No 584/92 for the period 1 April to 30 June 1997, shall be accepted, per country of origin, up to the percentages indicated.

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 62, 7. 3. 1992, p. 34.

⁽²⁾ OJ No L 82, 22. 3. 1997, p. 43.

ANNEX

Country	Poland			Czech Republic			Slovak Republic			Hungary
	0402 10 19 0402 21 19 0402 21 99	0405 10 11 0405 10 19 butter	0406 cheese	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 butter	ex 0406 40 90 ex 0406 90 29 ex 0406 90 Moravsky block ⁽¹⁾	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 butter	ex 0406 40 90 ex 0406 90 29 ex 0406 90 Moravsky block ⁽¹⁾	
in %	0,789	1,337	9,109	0,792	1,061	7,692	0,954	1,360	4,651	100,—

(¹) Primator, Otava, Javor, Uzeny block, Kashkaval, Akawi, Istambul, Jadel Hermelin, Ostepek, Koliba, Inovec.

(²) Cream-white, Hajdu, Marvany, Ovari, Pannonia, Trappista, Bakony, Bacsikai, Ban, Delicacy cheese 'Moson', Goya, Ham-shaped, Karavan, Lajta, Parenyica, Sed, Tihany.

(tonnes)

COMMISSION REGULATION (EC) No 699/97
of 18 April 1997
amending Regulation (EEC) No 1627/89 on the buying in of beef by invitation to tender

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 6 (7) thereof,

Whereas Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender ⁽³⁾, as last amended by Regulation (EC) No 524/97 ⁽⁴⁾, opened buying in by invitation to tender in certain Member States or regions of a Member State for certain quality groups;

Whereas the application of Article 6 (2), (3) and (4) of Regulation (EEC) No 805/68 and the need to limit intervention to the buying in of the quantities necessary to ensure reasonable support for the market result, on the basis of the prices of which the Commission is aware, in

an amendment, in accordance with the Annex hereto, to the list of Member States or regions of a Member State where buying in is open by invitation to tender, and the list of the quality groups which may be bought in;

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

The Annex to Regulation (EEC) No 1627/89 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 21 April 1997.

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

Done at Brussels, 18 April 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 159, 10. 6. 1989, p. 36.

⁽⁴⁾ OJ No L 82, 22. 3. 1997, p. 35.

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

Estados miembros o regiones de Estados miembros y grupos de calidades previstos en el apartado 1 del artículo 1 del Reglamento (CEE) n° 1627/89

Medlemsstater eller regioner og kvalitetsgrupper, jf. artikel 1, stk. 1 i forordning (EØF) nr. 1627/89

Mitgliedstaaten oder Gebiete eines Mitgliedstaats sowie die in Artikel 1 Absatz 1 der Verordnung (EWG) Nr. 1627/89 genannten Qualitätsgruppen

Κράτη μέλη ή περιοχές κρατών μελών και ομάδες ποιότητας που αναφέρονται στο άρθρο 1 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 1627/89

Member States or regions of a Member State and quality groups referred to in Article 1 (1) of Regulation (EEC) No 1627/89

États membres ou régions d'États membres et groupes de qualités visés à l'article 1^{er} paragraphe 1 du règlement (CEE) n° 1627/89

Stati membri o regioni di Stati membri e gruppi di qualità di cui all'articolo 1, paragrafo 1 del regolamento (CEE) n. 1627/89

In artikel 1, lid 1, van Verordening (EEG) nr. 1627/89 bedoelde lidstaten of gebieden van een lidstaat en kwaliteitsgroepen

Estados-membros ou regiões de Estados-membros e grupos de qualidades referidos no n° 1 do artigo 1º do Regulamento (CEE) n° 1627/89

Jäsenvaltiot tai alueet ja asetukset (ETY) N:o 1627/89 1 artiklan 1 kohdan tarkoittamat laaturyhmät

Medlemsstater eller regioner och kvalitetsgrupper som avses i artikel 1.1 i förordning (EEG) nr 1627/89

Estados miembros o regiones de Estados miembros	Categoría A					Categoría C		
Medlemsstat eller region	Kategori A					Kategori C		
Mitgliedstaaten oder Gebiete eines Mitgliedstaats	Kategorie A					Kategorie C		
Κράτος μέλος ή περιοχή κράτους μέλους	Κατηγορία Α					Κατηγορία Γ		
Member States or regions of a Member State	Category A					Category C		
États membres ou régions d'États membres	Catégorie A					Catégorie C		
Stati membri o regioni di Stati membri	Categoria A					Categoria C		
Lidstaat of gebied van een lidstaat	Categorie A					Categorie C		
Estados-membros ou regiões de Estados-membros	Categoria A					Categoria C		
Jäsenvaltiot tai alueet	Luokka A					Luokka C		
Medlemsstater eller regioner	Kategori A					Kategori C		
	S	E	U	R	O	U	R	O
België/Belgique	×	×		×				
Danmark				×	×			
Deutschland			×	×				
Spain			×	×				
France			×	×				×
Ireland						×	×	×
Nederland				×				
Österreich			×	×				
Portugal			×	×				
Suomi				×	×			
Sweden				×	×			
Great Britain			×	×	×	×	×	×
Northern Ireland			×	×	×	×	×	×

COMMISSION REGULATION (EC) No 700/97

of 18 April 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 Commis-

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 April 1997.

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

Done at Brussels, 18 April 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 18 April 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 20	052	123,5
	204	95,1
	212	109,5
	624	125,2
	999	113,3
0707 00 15	052	93,8
	999	93,8
0709 90 75	052	95,9
	999	95,9
0805 10 11, 0805 10 15, 0805 10 19	052	43,7
	204	43,5
	212	63,7
	220	35,2
	400	36,8
	448	26,6
	600	47,6
	624	43,0
	625	36,4
	999	41,8
0805 30 20	400	86,9
	528	66,1
	600	67,5
	999	73,5
0808 10 61, 0808 10 63, 0808 10 69	060	66,8
	388	91,9
	400	95,2
	404	110,4
	508	72,0
	512	74,8
	524	59,5
	528	74,7
	720	103,4
	804	100,0
	999	84,9
0808 20 37	388	70,7
	512	70,8
	528	79,5
	999	73,7

⁽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'.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 April 1997

appointing a member of the Economic and Social Committee

(97/253/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing members of the Economic and Social Committee for the period from 21 September 1994 to 20 September 1998 ⁽¹⁾,

Whereas a seat has become vacant on the Economic and Social Committee following the resignation of Mr André Laur, communicated to the Council on 8 November 1996;

Having regard to the nominations submitted by the French Government on 25 November 1996,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Joseph Balle is hereby appointed a member of the Economic and Social Committee in place of Mr André Laur for the remainder of the latter's term of office, which expires on 20 September 1998.

Done at Luxembourg, 14 April 1997.

For the Council

The President

J. VAN AARTSEN

⁽¹⁾ OJ No L 257, 5. 10. 1994, p. 20.

COUNCIL DECISION
of 14 April 1997
appointing an alternate member of the Committee of the Regions
(97/254/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Council Decisions 94/65/EC of 26 January 1994 ⁽¹⁾ and 95/15/EC of 23 January 1995 ⁽²⁾ appointing members and alternate members of the Committee of the Regions,

Whereas a seat as an alternate member of the Committee has become vacant following the resignation of Mr Jesús Pedroche Nieto, notified to the Council on 26 March 1997;

Having regard to the proposal from the Spanish Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Ms Carmen Álvarez-Arenas Cisneros is hereby appointed an alternate member of the Committee of the Regions in place of Mr Jesús Pedroche Nieto for the remainder of the latter's term of office, which runs until 25 January 1998.

Done at Luxembourg, 14 April 1997.

For the Council

The President

J. VAN AARTSEN

⁽¹⁾ OJ No L 31, 4. 2. 1994, p. 29.

⁽²⁾ OJ No L 25, 2. 2. 1995, p. 20.

COUNCIL DECISION

of 14 April 1997

amending Decision 91/116/EEC setting up the European Advisory Committee on statistical information in the economic and social spheres

(97/255/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the draft decision submitted by the Commission,

Whereas Article 4 of Decision 91/116/EEC⁽¹⁾ specifies the number of members of which the Committee shall consist;

Whereas by reason of the accession of Austria, Finland and Sweden it is necessary to adjust the number of members of the Committee accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 4 of Decision 91/116/EEC shall be replaced by the following:

'Article 4

The Committee shall consist of

- four members representing the Commission, one of whom shall be the Member of the Commission responsible for statistical information policy,
- the Chairman of the Committee on Monetary, Financial and Balance of Payments Statistics,

— the Presidents or Directors-General of the national statistical institutes of the Member States,

— two representatives per Member State appointed by the Council, after consulting the Commission, from among leading representatives of the various economic and social categories and scientific circles. With a view to the appointment of these members, each Member State shall provide the Council with a list comprising four candidates. The Council shall take account of the need for the various economic and social categories and the scientific field to be adequately represented.'

Article 2

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Luxembourg, 14 April 1997.

For the Council

The President

J. VAN AARTSEN

⁽¹⁾ OJ No L 59, 6. 3. 1991, p. 21.

COUNCIL DECISION

of 14 April 1997

granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe countries, Mediterranean countries, Latin American and Asian countries and South Africa)

(97/256/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

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

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

(1) Whereas the European Council meeting in Essen on 9 and 10 December 1994 defined the pre-accession strategy for the associated Central and Eastern Europe countries;

(2) Whereas the European Council in Cannes on 26 and 27 June 1995 agreed to supplement the budgetary assistance granted to the Mediterranean countries by an increase in European Investment Bank (EIB) loans to contribute to the creation of a free-trade area and to the Euro-Mediterranean partnership;

(3) Whereas the European Council meeting in Madrid on 15 and 16 December 1995 called on the Council and the Commission to implement the Declaration on the Euro-Mediterranean partnership and the work programme drawn up at the Barcelona Conference with the Mediterranean countries (Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria and Tunisia, Turkey, Gaza-West Bank); whereas, at the same meeting, the European Council confirmed the importance of the EIB's role as an instrument of cooperation between the Community and Latin America and called on the EIB to intensify its activities in the region; whereas the European Council also noted with respect to enlargement that the continued activities of the EIB will allow an overall increase in the input for accession preparations;

(4) Whereas the European Council meeting in Florence on 21 and 22 June 1996 welcomed the results of the Asia-Europe summit, which marked a turning-point in the relations between the two continents;

(5) Whereas the Central and Eastern Europe countries (Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia) are undertaking major poli-

tical and social reforms and have embarked on a fundamental restructuring of their economies;

(6) Whereas the EIB is completing the current loan programmes for Central and Eastern Europe countries pursuant to Decision 93/696/EC⁽³⁾ and the lending that is governed by the IV Protocols and horizontal financial cooperation in the Mediterranean non-member countries as set out in Regulation (EEC) No 1763/92⁽⁴⁾;

(7) Whereas the EIB has already completed the three-year lending programme in Latin American and Asian countries pursuant to Decision 93/115/EEC⁽⁵⁾; whereas a new interim programme pursuant to Decision 96/723/EC⁽⁶⁾ will permit the EIB to continue its lending activities in those countries;

(8) Whereas the Council approved on 4 October 1994 a Cooperation Agreement between the Community and the Republic of South Africa that aims to promote harmonious, balanced and sustainable social and economic development; whereas the EIB will be completing in June 1997 the two-year lending programme in South Africa pursuant to Decision 95/207/EC⁽⁷⁾;

⁽³⁾ Council Decision 93/696/EC of 13 December 1993 granting a Community guarantee to the European Investment Bank against losses under loans for projects in Central and Eastern European countries (Poland, Hungary, the Czech Republic, the Slovak Republic, Romania, Bulgaria, Estonia, Latvia, Lithuania and Albania) (OJ No L 321, 23. 12. 1993, p. 27).

⁽⁴⁾ Council Regulation (EEC) No 1763/92 of 29 June 1992 concerning financial cooperation in respect of all Mediterranean non-member countries (OJ No L 181, 1. 7. 1992, p. 5) as amended by Regulation (EC) No 1735/94 (OJ No L 182, 16. 7. 1994, p. 6).

⁽⁵⁾ Council Decision 93/115/EEC of 15 February 1993 granting a Community guarantee to the European Investment Bank against losses under loans for projects of mutual interest in certain third countries (OJ No L 45, 23. 2. 1993, p. 27).

⁽⁶⁾ Council Decision 96/723/EC of 12 December 1996 granting a Community guarantee to the European Investment Bank against losses under loans for projects of mutual interest in Latin American and Asian countries with which the Community has concluded cooperation agreements (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, El Salvador, Uruguay and Venezuela; Bangladesh, Brunei, China, India, Indonesia, Macao, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Vietnam) (OJ No L 329, 19. 12. 1996, p. 45).

⁽⁷⁾ Council Decision 95/207/EC of 1 June 1995 granting a Community guarantee to the European Investment Bank against losses under loans for projects in South Africa (OJ No L 131, 15. 6. 1995, p. 31).

⁽¹⁾ OJ No C 13, 14. 1. 1996, p. 9.

⁽²⁾ OJ No C 115, 14. 4. 1997.

- (9) Whereas the Council calls on the EIB to continue its operations in support of investment projects carried out in the Central and Eastern Europe countries, Mediterranean countries, Latin American and Asian countries and South Africa;
- (10) Whereas it is appropriate to effect certain improvements in the programmes of operations in respect of duration, instruments used and country coverage;
- (11) Whereas the guarantee provided for in this Decision should be granted to the EIB;
- (12) Whereas this guarantee is subject to the conditions set out in the Regulation (EC, Euratom) No 2728/94⁽¹⁾;
- (13) Whereas, in June 1996, the Commission, in agreement with the EIB, presented to the Council a proposal for a new guarantee system for EIB lending to third countries;
- (14) Whereas the Council on 2 December 1996 has approved conclusions on new guarantee arrangements for EIB lending to third countries, according to which: 'The volume of external lending shall respect the Financial Perspective and Community Budget discipline as well as the EIB internal guidelines on lending to third countries and take into account the conclusions of European Councils at Essen, Cannes and Madrid. The approach of a blanket guarantee, without distinguishing regions and projects, is approved. A risk sharing element as proposed by the Commission and the EIB is accepted. Accordingly, the EIB is invited where possible to secure, on a significant proportion of its lending, adequate third-party guarantees for commercial risks, with the Budgetary guarantee in that case being responsible only for political risks arising from currency non-transfer, expropriation, war and civil disturbance. The EIB is invited to aim at 25 % of its total lending under the mandates as a target for the use of non-sovereign guarantees to be expanded on wherever possible insofar as the market permits on an individual mandate basis. The application of the target to individual mandates is to be specified at the time of negotiation of those mandates.';
- (15) Whereas this Decision should conform to the above conclusions;
- (16) Whereas a guarantee level of 70 % is sufficient to meet the total lending volume of the new lending mandates and other lending needs for the duration of this Decision;
- (17) Whereas the new guarantee arrangements will not affect the excellent credit standing of the EIB;
- (18) Whereas the Council concluded on 2 December 1996 that 'the provisioning rates of the Guarantee Fund will remain at the current levels up to 1999'; whereas the Council concluded on 27 January 1997 that 'each payment to the loan guarantee fund will be based on the percentage required at the time of payment, that is 15 % currently and 14 % as soon as feasible';
- (19) Whereas the Commission and the EIB recognizing their respective areas of responsibility should ensure appropriate coordination between EIB operations in the eligible third countries and the implementation of the Community's other financial instruments;
- (20) Whereas the Commission and the EIB should consult together in order to ensure that, in determining the rate at which the mandates are used, account will be taken of the annual fluctuations in the rate at which the Community is being asked to provide balance of payments support to third countries;
- (21) Whereas the Council has approved this Decision and in particular the amounts of the mandates taking into account its conclusions of 27 January 1997 according to which: 'Member States and the Commission unanimously declare that they agree to the creation of a substantial pre-accession support facility. They invite the EIB to propose such a facility to the Board of Governors later this year. The facility will enter into force as soon as possible in the light of future accession. The facility will be approved under Article 18 of the EIB statute and carry no guarantee from the Community budget or from the Member States. The EIB lending envelopes covered by a Community guarantee can be considered to be consistent with a provision of ECU 1 050 million for macro-financial assistance (MFA) assuming that ECU 750 million is needed for Euratom lending; whereas the maximum for MFA should be increased to ECU 1 200 million, if Euratom lending in the period of application of the present decision does not exceed ECU 600 million.';
- (22) Whereas, for the purpose of adopting this Decision, the only powers provided for by the Treaty are those set out in Article 235,
- ⁽¹⁾ Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions (OJ No L 293, 12. 11. 1994, p. 1).

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall grant the European Investment Bank a global guarantee in respect of all payments not received by it but due in respect of credits opened, in accordance with its usual criteria for investment projects carried out in the Central and Eastern Europe countries, in the Mediterranean countries, in the Latin American and Asian countries, and in the Republic of South Africa.

This guarantee shall be restricted to 70 % of the aggregate amount of the credits opened, plus all related sums. The overall ceiling of the credits opened shall be equivalent to ECU 7 105 million, broken down as follows:

- Central and Eastern Europe countries ECU 3 520 million,
- Mediterranean countries ECU 2 310 million,
- Latin American and Asian countries ECU 900 million,
- Republic of South Africa ECU 375 million,

and shall cover a period of three years beginning on 31 January 1997 for Central and Eastern Europe, Mediterranean and Latin American and Asian countries, and on 1 July 1997 for the Republic of South Africa. If, on the expiry of this period, the loans granted by the EIB have not attained the overall amounts referred to above, the period shall be automatically extended by six months.

2. The countries included above are:

- Central and Eastern Europe: Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia,
- Mediterranean countries: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey, Gaza-West Bank,
- Latin America: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela,
- Asia: Bangladesh, Brunei, China, India, Indonesia, Macao, Malaysia, Mongolia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Vietnam,
- Republic of South Africa.

3. The European Investment Bank is invited to aim to cover the commercial risk on 25 % of its lending under

this decision from non-sovereign guarantees to be expanded upon whenever possible insofar as the market permits on an individual mandate basis.

Article 2

The Commission shall inform the European Parliament and the Council every six months of the situation regarding loans signed and progress made on risk sharing according to Article 1 (3). To that end, the EIB shall regularly transmit to the Commission the appropriate information.

Article 3

The Commission shall inform the European Parliament and the Council each year of the loan operations and shall, at the same time, submit an assessment of the operation of the scheme and of coordination between the financial institutions operating in that area.

Article 4

The Council shall evaluate the application of this Decision on the basis of a report presented in June 1998 by the Commission and the EIB.

Article 5

Detailed rules for the application of this Decision shall be laid down in an agreement to be concluded between the Commission and the EIB.

Article 6

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 14 April 1997.

For the Council

The President

J. VAN AARTSEN

COMMISSION

COMMISSION DECISION

of 5 June 1996

concerning guarantees of the *Land Brandenburg* (Germany) for investment projects in Poland

(Only the German text is authentic)

(Text with EEA relevance)

(97/257/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having given notice to the parties concerned, in accordance with the aforementioned Articles, to submit comments, and having regard to those comments,

Whereas:

I

- (1) By a communication dated 25 January 1995, the German authorities notified a Brandenburg guarantee scheme for investment projects in Poland (*Richtlinien für die Übernahme von Bürgschaften zur Teilfinanzierung von Vorhaben in der Republik Polen durch die Bürgschaftsbank Brandenburg*); by communications dated 28 March, 16 June and 10 August 1995, and at a meeting held in Bonn on 23 May 1995, the German authorities provided additional information.
- (2) On 31 October 1995, the Commission decided to initiate the procedure provided for in Article 93 (2) of the EC Treaty. By letter dated 27 December 1995, the Commission informed the German Government thereof and requested it to submit its comments within one month. That letter was published in *Official Journal of the European Communities* No C 71 of 9 March 1996 as notice to the other Member States and interested parties to

submit any comments they might have on the measures in question within one month.

- (3) By letter dated 29 January 1996, the German Government submitted detailed observations. Observations were also submitted by Du Pont de Nemours International SA on 9 April 1996. Those observations were submitted to the German Government for its comments by fax dated 22 April 1996. The other Member States did not react to the notice.

II

- (4) The guarantee programme is to run from 1995 to 1998 and offers guarantees worth a total of DM 20 million (ECU 10,5 million) per year. The German authorities expect to grant some 20 guarantees each year.

- (5) The scheme is open to:

- undertakings having their registered office or a place of business in Brandenburg, or
- persons residing in Brandenburg,

that wish to carry out projects in Poland (joint ventures, company start-ups),

as well as to projects involving:

- Brandenburg members of joint ventures with Polish entities, or
- companies (*Projektgesellschaften*) formed in Poland by undertakings having a place of business in Brandenburg with a view to taking part in a joint venture.

- (6) The guarantees are granted exclusively in the manufacturing and services industries, horticulture and the liberal professions.

- (7) The guarantees may be granted in respect of loans for financing investments, working capital, company start-ups or acquisitions, and the provision of certain warranties and guarantees.
- (8) The maximum duration of the guarantee is 15 years (23 years in the case of loans financing investments in construction). The recipient of the guarantee has to pay a single handling fee of 0,75 % (*Bearbeitungsgebühr*) and an annual guarantee premium of 0,8 % (*Bürgschaftsprovision*) of the amount due. The German authorities expect a default rate of 10 %.
- (9) The amount guaranteed is limited in each case to 90 % of the amount of the loan eligible, with a ceiling of ECU 520 000. The amount of the loan eligible is limited to 75 % of project costs.
- (10) The aid intensity of the guarantees (as a proportion of the amount of the loans guaranteed) was provisionally estimated to be at 10 %. Moreover, it was noted that guarantees may be combined with other types of aid.
- (11) When opening proceedings, the Commission took the view that the loan guarantees in question may constitute State aid within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement in that they improve the economic situation of the undertakings requesting aid and are capable of affecting trade between Member States. The Commission expressed doubts whether and under what conditions investment aid granted to undertakings established in the European Union with a view to promoting commercial activities carried out by them outside the European Economic Area was compatible with the common market. The scheme was not restricted to SMEs, and the ceilings for the combination of different types of aid laid down in the guidelines on State aid for SMEs was likely to be exceeded. In view of these doubts, the Commission considered none of the derogations envisaged in Article 92 (2) and (3) to be applicable and decided to initiate proceedings pursuant to Article 93 (2) in respect of the scheme in question.
- (12) The German authorities presented their comments on the Commission's letter initiating the procedure by letter dated 29 January 1996. The German authorities regard the award of guarantees for undertakings in Brandenburg as an appropriate means to compensate for the disadvantages of Brandenburg as a location in view of its peripheral situation in the European Union. The guarantee facility is intended to assist in particular SMEs which do not usually have sufficient equity capital to take up loans for cross-border investment activities in Poland. As opposed to Western European enterprises, SMEs in Brandenburg do not have appropriate security of their own to raise money on the capital market.
- (13) The guarantee facility would also encourage cross-border cooperation between enterprises located in the European Union and in Poland. Foreign investment in Poland also promotes the economic development in that country, strengthens the capital base of its enterprises and adds to technical and commercial know-how. Cross-border cooperation of this type is not only an aim of the Europe Agreement of the European Communities with Poland, but also corresponds to targets set out in the Community's Phare programme and the aims of the EBRD.
- (14) The German authorities confirm that the aid does not contain any discriminatory element since all enterprises with a place of business (*Betriebsstätte*) in Brandenburg are eligible for aid, regardless of the location of the main seat of the company (*Hauptgeschäftssitz*).
- (15) Moreover, the German authorities informed the Commission that the original notification is being modified to the effect that the scheme will be limited to SMEs as defined in the Community guidelines on State aid for small and medium-sized enterprises⁽¹⁾. Applications submitted by large enterprises will be notified individually. The German authorities therefore assume that the scheme can be authorized since, in its amended version, it corresponds to the 'guidelines for guarantees for shareholdings in countries which are in a democratic and market economy reform process' of the German *Land* Lower Saxony (N 362/95) which was authorized by the Commission on 20 December 1995.
- (16) The German authorities question the Commission's provisional estimation that the aid intensity of the guarantee may be as high as 10 % and regard an aid intensity of 1 to 2 % of the guaranteed amount to be a more appropriate estimation. Furthermore, most cases of application of the scheme would remain within the *de minimis* threshold of ECU 50 000 per enterprise over a three-year period. The reason for nevertheless notifying the scheme is that the authorities of Brandenburg do not intend to exclude enterprises which have already made use of the *de minimis* facility for other purposes.
- (1) Community guidelines on State aid for small and medium-sized enterprises (SMEs) (OJ No C 213, 19. 8. 1992, p. 2).

III

- (17) For these reasons, the German authorities consider that the aid scheme is compatible with the common market, because it compensates for the economic disadvantages caused by the division of Germany (Article 92 (2) (c) of the EC Treaty).

Moreover, the aid promotes the economic development of areas where the standard of living is abnormally low or where there is serious unemployment. This would hold true for both enterprises located in Brandenburg (area eligible for aid pursuant to Article 92 (3) (a) of the EC Treaty) and enterprises located in Poland (country recognized as area comparable to an Article 92 (3) (a) region in the Community according to Article 63 (4) (a) of the Europe Agreement).

Notwithstanding the above considerations, the aid could also be considered to contribute to the economic development of certain economic areas, namely the region of Brandenburg as border area to Poland, because the aid does not adversely affect trading conditions to an extent contrary to the common interest (Article 92 (3) (c) of the EC Treaty). Finally, being aid to SMEs, the scheme would be compatible with the common market pursuant to Article 92 (3) (c) of the EC Treaty (development of certain economic activities).

IV

- (18) Observations were submitted by Du Pont de Nemours International SA. In its opinion, the schemes are an innovative and pragmatic approach to the need to attract foreign investment to countries in central and eastern Europe. Economic restructuring measures were essential to the eventual integration of those countries into the European Union.

V

The aid character and aid intensity of the scheme

- (19) By aiding Brandenburg members of joint ventures with Polish entities, or companies (*Projektgesellschaften*) formed in Poland by enterprises having a place of business in Brandenburg with a view to taking part in a joint venture, the measures favour certain enterprises or the production of certain goods compared to other enterprises which do not receive aid for these activities. The measures strengthen the position of enterprises which receive aid *vis-à-vis* enterprises which do not receive aid to carry out these activities and thus threaten to

distort competition. Enterprises located in the European Economic Area may also compete with each other for investment abroad. In such a situation, aid certainly distorts competition between EEA enterprises in a very direct manner.

- (20) Although trade effects between Member States (Article 92 of the EC Treaty) or Contracting Parties (Article 61 of the EEA Agreement) are probably felt less intensively in cases of aid to projects in Poland and hence outside the European Economic Area, such effects cannot *a priori* be excluded. In certain cases, trade might be affected only by way of indirect repercussions (e.g. in cases where the goods produced in Poland are re-imported into the European Union). On the other hand, such aid may also strengthen the position of the aid recipient located in Brandenburg and thus in the common market. In such a case, aid to the projects which can be supported by the scheme may have direct effects on trade between Member States.
- (21) On those grounds, the proposed aid scheme must be deemed to fall under Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement. This conclusion is shared by the German authorities, which rightly point at the dual effects such aid may have on the source (Brandenburg) and the host (Polish) market.

- (22) However, it should be noted that the usual conditions the Commission attaches to guarantee schemes are met as the benefiting enterprises are charged an initial handling fee and an annual guarantee premium. Furthermore, a considerable part of the risk is borne by the beneficiaries themselves, as the amount guaranteed is limited to 90 % of the loans, and the loans eligible for cover by the guarantees are limited to 75 % of the project's cost. The nature of the scheme shows that it is addressed to viable enterprises. Rescue operations cannot be aided.

- (23) Basing the calculation of the aid equivalent of the guarantees on the total project costs eligible for aid, and taking into account the fact that the guarantee may cover only up to 67,5 % (i.e. $0,9 \times 0,75 \times 100$) of the project's cost, the aid intensity can be assessed at 3,35 % gross (6,75 – 3,4, i.e. estimated risk minus annual premium discounted to present value)⁽¹⁾. For this approximative calculation, it is assumed that the single handling fee of 0,75 % covers the administrative costs of the scheme.

⁽¹⁾ Method of calculation for loan guarantees as set out in the second indent of the Commission notice on the *de minimis* rule for State aid (OJ No C 68, 6. 3. 1996, p. 9).

- (24) Having regard to the maximum ceiling of DM 1 million (ECU 0,52 million) for the guaranteed amount per enterprise, the average value of the guarantee can be said not to exceed DM 44 700 (ECU 23 400), i.e. 3,35 % of the maximum total project costs of DM 1,33 million. Although this amount clearly remains below the *de minimis* threshold of ECU 100 000 per enterprise within a three-year period, it still has to be regarded as aid falling under Article 92 (1) of the EC Treaty, because the German authorities intend to grant the guarantee, at least in certain cases, to enterprises which have already used the *de minimis* facility for other purposes. However, it has to be borne in mind that the German authorities originally notified the scheme at a time when the *de minimis* threshold was set at ECU 50 000. It may therefore be concluded that the number of aid recipients out of the estimated total number of aid recipients of some 20 enterprises per year using the guarantee scheme on top of the *de minimis* aid is considerably lower than originally estimated by the German authorities.

The compatibility of the scheme with the common market

- (25) The aid helps offset the significant risks attached to investment in Poland. By promoting joint ventures between companies established in Brandenburg and companies established in Poland as well as the participation of Brandenburg companies in Polish companies, the aid scheme encourages cross-border cooperation and activities of the enterprises eligible for aid. It thus also contributes to the development of the Brandenburg region and to the strengthening of economic links with Poland and its integration into the European economy.
- (26) With regard to the aid recipients, namely SMEs established in Brandenburg, the aid would no doubt be compatible with the common market pursuant to Article 92 (3) (a) of the EC treaty, if the aided activities took place in Brandenburg itself. However, the regional exemption provided for in Article 92 (3) (a) and (c) of the EC Treaty can be applied only to investment carried out within the aided area.
- (27) On the other hand, such aid certainly strengthens the position of the aid recipients on the common market as well as their competitiveness on the world market and thus can be considered to 'facilitate the development of certain economic activities' within the meaning of Article 92 (3) (c) of the EC Treaty.

However, such aid can be authorized only if it 'does not adversely affect trading conditions to an extent

contrary to the common interest' (Article 92 (3) (c) of the EC Treaty, second part of the first sentence thereof). In cases of aid to outward foreign direct investment (FDI), the assessment has to take account of two additional factors, which normally do not play a major role when assessing the compatibility of an aid: the international competitiveness of European industry and European interest in strengthening the economic cooperation with certain third countries. With regard to both aspects, a balance has to be found with possible negative effects within the European Union, e.g. risks of delocalization and possible negative impacts on employment.

- (28) The Community SME guidelines recognize that aid is justified to help SMEs overcome their specific handicaps. Compared to large enterprises, SMEs have greater difficulties in access to the capital market in general and in raising finance in particular, and this may constitute a severe obstacle for their development. The Community guidelines on State aid for small and medium-sized enterprises demonstrate the Commission's positive attitude towards types of aid helping SMEs to overcome those handicaps, in particular with regard to aid for investment. The analysis made by the Commission in the SME guidelines did not lead to any differentiation with regard to the location of the investment within or outside the Community. This indicates that the SME guidelines can be applied to any investment made by SMEs regardless of location.

Moreover, the handicaps facing SMEs are the same or even bigger for investment activities outside the European Economic Area. In the case of SMEs, the possible negative effects of outward FDI on the European economy, e.g. on employment or with regard to delocalization risks, can be regarded as not perceptible. In addition, the definition of eligible investment ('initial investment') ensures that the transfer of a plant located in the Community to a third country cannot be eligible for aid.

- (29) With regard to the definition of 'investment' eligible for investment aid, the Commission has always taken the view, for reasons of consistency, that the definition applied for investments of SMEs should be the one laid down in the principles of coordination of regional aid systems⁽¹⁾. According to its point 18 (i), which is identical to point 25 (11) of the EFTA Surveillance Authority's guidelines

⁽¹⁾ OJ No C 31, 3. 2. 1979, p. 9.

referred to by the Austrian Government investment eligible for aid is 'initial investment', interpreted as investment in fixed assets:

— 'in the creation of a new establishment, the extension of an existing establishment or in engaging in an activity involving a fundamental change in the product or production process of an existing establishment (by means of rationalization, restructuring or modernization)',

or

— 'by way of takeover of an establishment which has closed or which would have closed had such takeover not taken place.'

- (30) With regard to the scheme under examination, the Commission notes that the definition of eligible costs is broader than the one applied by the Commission, particularly because aid acquisitions of enterprises or of shares in enterprises are included as eligible costs. Usually, the eligible costs for investment aid or SMEs as referred to under point 4.1 of the SME guidelines have to be defined in accordance with point 18 (i) of the principles of coordination of regional aid systems. Alternatively, only the parts of the eligible costs of a national aid scheme corresponding to the Community definition of 'initial investment' can be taken into account when calculating aid intensity. Although the Commission does not, in principle, exclude the possibility of authorizing aid based on eligible costs other than those usually recognized, a more thorough investigation will have to ensure the compatibility of such aid with the common market. The Federal Republic of Germany will, therefore, have to ensure that the authorizable aid ceilings of 15 % for small enterprises and 7,5 % for medium-sized enterprises are respected. Any aid based on eligible costs differing from those usually accepted by the Commission and leading to an aid intensity exceeding those ceilings, will accordingly have to be notified individually and will be considered by the Commission on a case-by-case basis.

- (31) The Commission is aware of the importance of direct investment in third countries both for strengthening links with those countries and for diversifying and internationalizing European industry.

The acceptability of the application of the SME guidelines finds support by the Community policy with regard to SMEs in other areas:

— the Commission considers that the present situation with regard to rules governing FDI is 'particularly unsatisfactory for SMEs which do not have the means to monitor and adapt to the

ever-changing conditions for FDI in the host countries' ⁽¹⁾,

— the conclusions of the European Council in Cannes on 15 and 16 December 1995 recognized the necessity to promote the internationalization of SMEs ⁽²⁾,

— clauses on encouraging close contacts between SMEs, with a view to promoting trade and industrial cooperation opportunities, are also included in cooperation agreements between the Community and third countries ⁽³⁾.

- (32) With regard to the view of the German authorities that Article 92 (2) (c) of the EC Treaty may be applicable, the Commission considers that, since that exemption clause could apply only in exceptional circumstances and since the proposed aid scheme may be deemed compatible with the common market pursuant to Article 92 (3) (c) of the EC Treaty, it is not necessary to take a position on the issue in the present case.

VI

- (33) In view of this and having regard to the low aid intensity, the rather small absolute amount of aid per enterprise, and the basic intention of the scheme to encourage cross-border cooperation with Polish companies and to contribute both to the development of the Brandenburg region and the stabilization of the transition of the Polish economy to a market economy, the aid scheme may be considered compatible with the common market pursuant to Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement and the Community guidelines on State aid for small and medium-sized enterprises (SMEs),

HAS ADOPTED THIS DECISION:

Article 1

The aid which the Federal Republic of Germany intends to grant, under the Guarantee scheme of the *Land Brandenburg* for investment projects in Poland, to small and medium-sized enterprises as defined by the Commission

⁽¹⁾ COM (95) 42 final, p. 5.

⁽²⁾ SI 95/1000, p. 14.

⁽³⁾ See, for example, Article 6 of the proposal for the conclusion of a Cooperation Agreement with Nepal (OJ No C 338, 16. 12. 1995, p. 10), and Article 12 of the proposal for the conclusion of an interregional framework cooperation Agreement with the Southern Cone Common Market and its member countries (Argentina, Brazil, Paraguay, Uruguay) (OJ No C 14, 19. 1. 1996, p. 4).

recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ No L 107, 30. 4. 1996, p. 4), is compatible with the common market pursuant to Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement.

Article 2

Any aid which the Federal Republic of Germany intends to grant under that scheme to small and medium-sized enterprises, which is based on eligible costs differing from those usually accepted by the Commission for investment aid for SMEs as referred to in point 4.1 of the SME guidelines (OJ No C 213, 19. 8. 1992, p. 2) and defined in accordance with point 18 (i) of the principles of coordination of regional aid systems (OJ No C 31, 3. 2. 1979, p. 9), and which, calculated on the basis of the eligible costs accepted by the Commission, leads to an aid intensity exceeding 15 % for small enterprises and 7,5 % for medium-sized enterprises, shall be notified individually pursuant to Article 93 (3) of the EC treaty.

Article 3

The German Government is requested to submit to the Commission an annual report on the application of the scheme.

Article 4

The German Government is reminded that the application of this scheme is subject to the rules governing the combination of aid, whether such combination involves aid for different purposes (OJ No C 3, 5. 1. 1985) or aid for the same purpose under schemes adopted by the same entity or by different entities (central, regional and/or local). In the latter case, the maximum ceiling authorized for the scheme referred to in Article 1 must not be exceeded.

Furthermore, the German Government is reminded that it must observe the Community rules and regulations applicable concerning certain sectors of industry, i.e. sectors covered by the ECSC Treaty, transport, fisheries and agriculture, including the processing and marketing of agricultural products (OJ No C 29, 2. 2. 1996, p. 4).

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 5 June 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

COMMISSION DECISION

of 18 December 1996

concerning aid for closures envisaged by Italy as part of the restructuring of its private steel industry

(Only the Italian text is authentic)

(Text with EEA relevance)

(97/258/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry⁽¹⁾,After giving notice to the parties concerned, in accordance with the abovementioned Decision, to submit their comments and taking into account those comments⁽²⁾,

Whereas:

I

By letter of 12 June 1996 the Commission notified the Italian authorities of its decision to initiate the procedure provided for in Article 6 (4) of Decision No 3855/91/ECSC, hereinafter the 'Steel Aid Code', in respect of aid they planned to grant, under a programme for the restructuring of Italy's private steel industry, to the following five enterprises in the steel sector:

- Diano SpA,
- Lamifer SpA,
- Demafer Srl,
- Lavorazione Metalli Vari (LMV) SpA,
- Sidercamuna SpA.

When it authorized Italian Law No 481 of 3 August 1994 on the restructuring of Italy's private steel sector after verifying that the Law complied with the Steel Aid Code and in particular with Article 4 thereof, the Commission called on the Italian authorities to notify it in advance of cases in which the Law was to be applied.

That Decision also specified that, in order to qualify for aid for closure, the firms concerned had to have been in operation for on average at least one shift per day, i.e. at

least eight hours per day, five days per week for the whole of 1993 and up to February 1994, when Decree-Law No 103/93 was notified to the Commission (the provisions of the Decree-Law were subsequently adopted as Law No 481/94).

According to information in the possession of the Commission, the firms concerned satisfied the other requirements set out in Article 4 of the Steel Aid Code governing aid for closures, but were not in regular production at the time of their closure.

In Case 177/96 Diano had produced 16 807 tonnes of hot-rolled products, equivalent to 21 % of its capacity; in Case 178/96 Lamifer SpA had produced only 23 542 tonnes of hot-rolled products, equivalent to 15,2 % of its capacity; in Case 182/96 Sidercamuna SpA had produced only 36 002 tonnes of hot-rolled products, equivalent to 7,6 % of its capacity, at the Berzo Inferiore (Brescia) plant. Demafer (Case N 180/96) and LMV (Case 181/96) were not in production in 1993.

Accordingly, since it was very difficult to determine whether the aid was compatible with the common market, the Commission decided to initiate the procedure provided for in Article 6 (4) of the Steel Aid Code in respect of the five abovementioned cases.

II

In accordance with that procedure, the Commission invited the Italian Government to submit its comments, while the other Member States and interested parties were informed by way of publication of the decision to initiate the procedure.

By two letters of 22 August 1996, the German Government and *Wirtschaftsvereinigung Stahl* notified the Commission of their comments, which were forwarded to the Italian authorities by letter of 16 September 1996. The comments expressed support for the Commission's decision to initiate the procedure.

⁽¹⁾ OJ No L 362, 31. 12. 1991, p. 57.

⁽²⁾ OJ No C 101, 3. 4. 1996, p. 4; and OJ No C 121, 25. 4. 1996, p. 3.

In response to the opening of the procedure and to the comments of third parties, the Italian Government argued the following:

- while referring back to the Decision of 12 December 1994, which allowed the Italian authorities to put forward objective criteria whereby plants that had operated at less than 25 % capacity could be eligible for closure aid, the Commission Decision initiating the procedure merely stated that the criteria put forward by Italy as a possible alternative to the concept of 'regular production' were unsuitable,
- the criteria the Italian authorities presented to the Commission for consideration were based on the view that the low or zero output recorded by some firms in 1993 and early 1994 was indicative not of a desire to abandon the steel market or of obsolescent or uncompetitive plant but of unfavourable conditions in connection with financial difficulties and a market crisis,
- by not redeploying their workforce, preferring instead to use the *Cassa integrazione guadagni* (wage guarantee fund), implement training schemes or apply for public early retirement benefits in the context of a restructuring plan, the firms clearly showed that they intended to restructure in order to overcome the crisis that was affecting them,
- the plants covered by the cases submitted to the Commission for scrutiny are not experiencing any problems of productivity resulting from technical factors. Some have recently benefited under major modernization schemes designed to increase efficiency and, since they have all been regularly maintained, each one could still, at little cost, resume regular production within a short space of time. The best proof of this is the very strong interest numerous potential buyers have shown in the plants,
- additional factors should be taken into account, such as the fact that electricity supply contracts have not been terminated, that the firms have remained active on the steel market, and that returns, in particular forms 260-261, have been sent to the ECSC, factors tending to confirm that the reduced or zero output in 1993 is attributable to unfavourable cyclical conditions and that the firms wanted to remain on the market and wait for the right conditions before resuming regular production.

III

By virtue of their production, the firms are subject to the rules of the ECSC Treaty, Article 4 (c) of which stipulates

that subsidies or aid granted by States in any form whatsoever are recognized as incompatible with the common market for coal and steel and are accordingly to be abolished and prohibited within the Community. The only possible exceptions to this general prohibition are set out explicitly and restrictively in the Steel Aid Code, in Article 2 (aid for research and development), Article 3 (aid for environmental protection) and Article 4 (aid for closures).

The purpose of the exceptions from the general ban on aid to the steel industry in Article 4 (c) of the ECSC Treaty is not in any way to make the Community rules governing aid to the steel industry less strict, since those rules are justified by the serious distortion of competition that might be caused by aid that is incompatible with the common market in a sector that continues to be very sensitive. It is therefore necessary for those rules to be strictly adhered to, which means that aid to an enterprise in the steel sector may be authorized only if the Commission is satisfied that the requirements of the Steel Aid Code have effectively been complied with.

Article 4 of the Steel Aid Code lays down that aid to firms which permanently cease production of ECSC iron and steel products may be deemed compatible with the common market on conditions that those firms:

- became a legal entity before 1 January 1991 and have not reorganized their production or plant structure since 1 January 1991,
- have been regularly producing ECSC iron and steel products up to the date of notification of the aid,
- are not directly or indirectly controlled, within the meaning of Decision No 24/54 of the High Authority⁽¹⁾, by, and do not themselves directly or indirectly control, an undertaking that is itself a steel undertaking or controls other steel undertakings.

Article 4 further provides that the amount of the aid may not exceed the higher of the following two values:

- the discounted value of the contribution to fixed costs obtainable from plants over a three-year period, less any advantages the aided firm derives from their closure,
- the residual book value of the plants (ignoring that portion of any revaluations since 1 January 1990 which exceeds the national inflation rate).

⁽¹⁾ OJ No 9, 11. 5. 1954, p. 345/54.

The Commission concludes that the cases under consideration satisfy every requirement except the one — regarding regular production — that had led to the initiation of proceedings.

In this connection, although it states that, in order to be eligible for aid, a firm must be in regular production at the time of the closure, the Steel Aid Code does not give a precise definition of regular. Accordingly, in its decision authorizing Italian Law No 481 of 3 August 1994, the Commission stated that the requirement concerned would be deemed to be met if the firm receiving the aid had been in production for an average at least one shift per day, i.e. at least eight hours per day, for five days per week for the whole of 1993 and up to 28 February 1994, when Decree-Law No 103/94, converted by the Italian Parliament into Law No 481/94, was notified to the Commission. The Commission decided, moreover, that the Italian authorities should be allowed to demonstrate on the basis of objective criteria that a firm which did not satisfy this requirement had regularly produced ECSC iron and steel products.

The Commission was then to examine the aid in the light of the particular circumstances of the case, in order to ensure that the criterion of regular production had been complied with.

The purpose of Article 4 of the Steel Aid Code and of the Commission decision of 12 December 1994 is clear: aid for closures may be granted only to firms that are significantly active, or whose production on the market in iron and steel products is regular. The Community legislator did not, however, feel it necessary or advisable to allow an exception to the general prohibition provided for in Article 4 of the ECSC Treaty in the absence of significant effects on the market resulting from the closure of a firm, as the latter is not in regular production.

It therefore follows that criteria could, provided they demonstrated the regularity of production, be accepted as an alternative to the one laid down by the Commission in its Decision. The criteria put forward by the Italian Government (non-cancellation of the electricity-supply contract, continued employment of the workforce, investment in plant, maintenance of the facilities, etc.), however, demonstrate not that the firms in question were in regular production, but that they were capable of producing on a regular basis.

Article 4 of the Steel Aid Code is drafted in such a way as to rule out a broad interpretation which would allow aid to go to firms which, although they had not been in regular production, were merely capable of producing ECSC products on a regular basis.

It would therefore appear that, in the light of the alternative criteria they have put forward, the way in which the criterion of regularity has been interpreted by the Italian

authorities is not founded in law and cannot therefore be accepted.

As regards the claim made by the Italian authorities that the low output recorded by the firms since 1993 was due to particularly unfavourable cyclical conditions and to a major crisis on the market in long products, it must be stated that production was in fact only slightly down in the case of long products, in particular in the case of wire rod and other bars and sections:

Italy

(in million tonnes)

	1990	1991	1992	1993
Long products	12,7	13,3	13,2	12,5
Wire rod	2,8	3,0	3,2	3,1
Bars and sections	3,6	3,5	3,3	3,2

The same applies to the market in concrete reinforcing rods — the most important as far as the firms in question are concerned — in respect of which there was a slight reduction in the rate of use of production capacity at both European and Italian level:

EUR-12

(in million tonnes)

Year	Capacity	Output	Rate of use of production capacity (%)
1991	19,98	12,24	61,3
1992	22,39	12,53	55,9
1993	22,84	12,92	56,5

Italy

(in million tonnes)

Year	Capacity	Output	Rate of use of production capacity (%)
1991	9,4	5,5	58,8
1992	10,4	5,7	54,3
1993	10,3	5,4	52,1

On the basis of these figures it must be concluded that the argument put forward by the Italian authorities, i.e. that the low level of production of the firms in question was attributable to unfavourable market conditions in 1993, cannot be accepted by the Commission.

Relevant though they may be in context of the restructuring of the steel sector, the comments on the positive

impact of these irreversible closures on a market featuring heavy overcapacity cannot be accepted in the context of the application of Article 4 of the Steel Aid Code.

Finally, concerning the comment by the Italian authorities that the Commission had not proceeded to define any alternative criteria to the one referred to in the authorizing Decision of 12 December 1994, it should be emphasized that it was for the Italian authorities alone to demonstrate, by means of suitable criteria other than the one put forward by the Commission, that production was regular.

In the light of the provisions of the Steel Aid Code, the other comments put forward by the Italian authorities are without any legal foundation.

The Commission notes, however, that in the case of Diano, which in 1993 had produced 16 807 tonnes of hot-rolled products — equivalent to 21 % of its capacity — the firm carried out major maintenance work in the rolling mill, which had repeatedly involved halting production. In practice, output at Diano, taking account of annual production and the maintenance work described, should have been roughly the same as the figure for 1991, when the firm produced 24 765 tonnes, corresponding to 31 % of capacity. In view of this and, in particular, the capacity utilization rate the firm would have been able to achieve had it not been for the above-mentioned major overhaul of its mill, the Commission has reason to believe that the firm in question was in regular production (on average one shift per day, five days per week), at the time of its closure.

IV

In the light of the above, in particular Part III of this Decision, it must be concluded that, with the exception of Case ex N 177/96 (Diano), the requirements applicable pursuant to Article 4 of the Steel Aid Code have not been satisfied and that the comments put forward by the Italian authorities are not such as to alter the initial assessment the Commission made when it decided to initiate the procedure provided for in Article 6 (4) of the Steel Aid Code.

It should therefore be concluded that the aid Italy plans to grant to:

- Lamifer SpA,
- Demafer Srl,
- Lavorazione Metalli Vari (LMV) SpA,
- Sidercamuna SpA,

are to be regarded as incompatible with the common market, in that they do not, pursuant to the Steel Aid

Code, qualify for exemption from the general prohibition provided for in Article 4 (c) of the ECSC Treaty.

However, the plan to grant aid totalling Lit 5 953 million to Diano SpA is compatible with the common market since it satisfies the requirements of Article 4 of the Steel Aid Code,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Italy plans to grant, in the context of the restructuring of its private steel sector, to Lamifer SpA, Demafer Srl, Lavorazione Metalli Vari (LMV) SpA and Sidercamuna SpA is incompatible with the common market pursuant to Article 4 (c) of the ECSC Treaty.

Accordingly, that aid may not be granted.

Article 2

The State aid which Italy plans to grant, in the context of the restructuring of its private steel sector, to Diano SpA is compatible with the common market.

The granting of that aid is therefore authorized.

Article 3

Italy shall inform the Commission, within two months of notification of this Decision, of the measures it has taken to comply with it.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 18 December 1996.

For the Commission

Karel VAN MIERT

Member of the Commission

CORRIGENDA

Corrigendum to Directive 96/27/EC of the European Parliament and of the Council of 20 May 1996 on the protection of occupants of motor vehicles in the event of a side impact and amending Directive 70/156/EEC

(Official Journal of the European Communities No L 169 of 8 July 1996)

Page 1, fifth citation, first line:

for: 'procedures',

read: 'procedure';

Page 2, Article 2 (1), third line:

for: 'impact resistance',

read: 'impact';

Page 2, Article 2 (3):

The first three lines shall read:

'3. Paragraph 2 shall not apply to vehicle types approved before 1 October 1998 pursuant to any two of the following Directives:'

Page 2, Article 2 (4):

in line 2:

for: 'must consider',

read: 'shall consider';

in line 5:

for: 'Directive, if they',

read: 'Directive if they';

Page 2, Article 3, Table:

first column, second row:

for: '54. Side impact resistance',

read: '54. Side impact protection';

second and third columns, second row:

for: '95/xxx/EEC | L ...',

read: '96/27/EC | L 169, 8. 7. 1996, p. 1.';

Page 2, Article 4:

the first three lines shall read as follows:

'In the framework of the adaptation of this Directive to technical progress, within two years from the date mentioned in Article 2 (2) a review shall be held by the';

in line 10:

for: 'passenger',

read: 'occupant';

the last sentence shall read as follows:

'The results of this review will be submitted to the European Parliament and the Council in a report drawn up by the Commission.'

Page 3, List of Annexes, Annex I, point 3:

for: 'amendments to type- and approvals',

read: 'amendments to type-approvals';

Page 4, Annex I:

point 1.1:

the existing text shall be replaced by the following:

'1.1 Applications for EC type-approval pursuant to Article 3 (4) of Directive 70/156/EEC of a vehicle type with regard to the protection of occupants of motor vehicles in the event of a side impact must be submitted by the manufacturer.';

point 1.4:

the existing text shall be replaced by the following:

'1.4 The manufacturer is entitled to submit any data and test results which make it possible to establish with a sufficient degree of confidence that compliance with the requirements can be achieved.';

point 2.1:

the existing text shall be replaced by the following:

'Where the vehicle type satisfies the relevant requirements, EC type-approval pursuant to Article 4 (3) and, if applicable, 4 (4) of Directive 70/156/EEC will be granted.';

point 2.4:

in the first line:

for: 'In doubtful cases',

read: 'In case of doubt';

in the second line:

for: 'may be of use',

read: 'may be taken into consideration';

Page 6, Annex I, Appendix 1, point 9.12.1:

in the heading of the first column:

for: 'L/C/R',

read: 'R/C/L';

In the heading to the second column:

for: 'Complete EC type-approved mark',

read: 'Complete EC type-approval mark';

Page 7, Annex I, Appendix 2, (type-approval certificate), first sentence, after the four indents:

for: 'Of a type',

read: 'of a type';

Page 9, Annex II, point 2.2.5:

for: 'in so far as there is a negative effect',

read: 'in so far as it has a negative effect';

Page 10, Annex II:

point 3.2.1, first line:

for: 'performance criteria, as',

read: 'Performance criteria as';

point 3.2.1.1, first line:

for: 'the head performance',

read: 'The head performance';

Page 11, Annex II:

point 3.3.2.1, first line:

for: 'passengers',

read: 'occupants';

point 3.3.4, first line:

for: 'acceptable; provided',

read: 'acceptable provided';

point 3.3.5:

for: ' 5×10^4 kg/s',

read: ' 5×10^{-4} kg/s';

Page 12, Annex II, Appendix 1:

point 1.1:

in the second line:

for: 'after-impact displacement',

read: 'post-impact displacement';

in the fourth line:

for: 'uncontaminated, and representative of a normal, dry, uncontaminated road surface',

read: 'smooth, and representative of a normal, dry, smooth road surface';

point 2.2, second line:

for: 'Requirements for the examination',

read: 'Requirements for verifying them';

in point 3, first line:

for: ' ± 50 km/h',

read: ' 50 ± 1 km/h';

Page 15, Appendix 1 — Addendum 1:

in point 1, first paragraph, second line:

for: 'initial contact and the last instant of contact',

read: 'first and last instants of contact';

in point 1, second paragraph, last line:

for: 'initial contact and the last instant of contact',

read: 'first and last instants of contact';

Page 18, Appendix 2:

in point 2.3.6, first line:

for: 'force-deflection of the impactor',

read: 'force-deflection curve of the impactor';

in point 2.3.7, second line:

for: 'dynamo metric barrier',

read: 'dynamometric barrier';

in point 2.3.13, first line:

for: ' 350 ± 20 mm',

read: ' 330 ± 20 mm';

Page 23, Appendix 3, point 2.3.6:

The sentence shall read as follows:

'The angle between the two faces of the neck-bracket is 25° . Because the shoulder block is inclined 5° backwards, the resulting angle between the neck and torso is 20° .';

Page 24, Appendix 3, point 2.8.4, second line:

for: 'lead-pellets',

read: 'lead pellets';

Page 25, Appendix 3, point 2.11.2, second line:

for: 'spine, the upper',

read: 'spine, and the upper';

Page 28, Appendix 3, point 3.1.1, first line:

for: 'half spherical screws',

read: 'hemi-spherical screws';

Page 31, Appendix 3:

in point 5.6.6:

for: 'degrees and occur between',

read: 'degrees and occur after between';

in point 5.6.7, first line:

for: 'lateral and vertical direction',

read: 'lateral and vertical directions';

in point 5.6.8, second line:

for: 'shore hardness',

read: 'Shore hardness';

Page 32, Appendix 3, point 5.9.3, first line:

for: ' $7,8 + 0$ to $0,1$ kg',

read: ' $7,8 + 0$ — $0,1$ kg';

Page 33, Appendix 3:

in point 5.10.6, first line:

for: ' 50 ± 5 degrees and occur between',

read: ' $50 \pm 5^\circ$ and occur after between';

in point 5.11.2:

for: '0 to 0,2 kg',

read: '0 — 0,2 kg';

in point 5.11.3, second line:

for: '0 to 0,2 kg',

read: '0 — 0,2 kg';

in point 5.11.7, second and third lines:

for: 'occur between',

read: 'occur after between';

in point 5.12.2:

for: '0 to 0,2 kg',

read: '0 — 0,2 kg';

in point 5.12.6, second line:

for: 'occur between',

read: 'occur after between';

in point 5.12.7, first line:

for: 'occur between',

read: 'occur after between';

Page 37, Appendix 5:

point 2.1.1.1, third line:

for: 'However, this test must not be carried out',

read: 'However, this test is not carried out';

point 2.1.1.2, second line:

for: 'thorax, during',

read: 'thorax during';

in point 2.2.1, second line:

for: 'vehicle, tests specified in 2.1.1.1 and 2.1.1.2, are',

read: 'vehicle, the tests specified in 2.1.1.1 and 2.1.1.2 are'.

Corrigendum to Commission Decision 94/197/EC of 26 January 1994 establishing, for the period 1994 to 1999, the list of rural areas under Objective 5 (b) as defined by Council Regulation (EEC) No 2052/88

(Official Journal of the European Communities No L 96 of 14 April 1994)

On page 87, under South West England, Devon County, Mid Devon District:

for: '(A) only the wards',

read: '(A) only the parishes'.
