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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1402/97**of 22 July 1997****amending Regulation (EEC) No 3461/85 on the organization of campaigns to promote the consumption of grape juice**

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

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 536/97 ⁽²⁾, and in particular Article 46 (4) thereof,

Whereas Commission Regulation (EEC) No 3461/85 ⁽³⁾, as last amended by Regulation (EC) No 1646/96 ⁽⁴⁾, lays down rules for the organization of campaigns to promote the consumption of grape juice;

Whereas Article 1 of Regulation (EEC) No 3461/85 provides that campaigns to promote the consumption of grape juice may be carried out only up to the 1996/97 wine year; whereas it is necessary to amend that Regulation since Article 46 (4) of Regulation (EEC) No 822/87 provides for the continuation of these campaigns up to 1997/98;

Whereas, to make the procedure for designating bodies to carry out the campaigns more competitive, provision should be made for these bodies to be designated after an invitation to tender;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3461/85 is hereby amended as follows:

1. in article 1 (1), '1996/97' is replaced by '1997/98';
2. Article 2 (2) is replaced by the following:

'2. Each of the Member States concerned, after appointing the body competent to conclude the contract, shall designate the body referred to in paragraph 1 after an invitation to tender and on the basis of the programmes submitted, after consulting the professional bodies most representative of the production and/or marketing of grape juice. It shall submit to the Commission within four months following the determination of the Member State in which the campaigns are to be carried out, as provided for in Article 1 (2), the programmes prepared by that body together with a reasoned opinion on their compliance with the conditions set out in Article 3 and on their effects on consumption trends.'

Article 2

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

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 83, 25. 3. 1997, p. 5.

⁽³⁾ OJ No L 332, 10. 12. 1985, p. 22.

⁽⁴⁾ OJ No L 207, 17. 8. 1996, p. 5.

COMMISSION REGULATION (EC) No 1403/97
of 22 July 1997

amending Regulation (EC) No 703/97 introducing for a trial period from 1 July 1997 to 30 June 1998 a cumulative recovery system for determining certain import duties on rice and amending Regulation (EC) No 1503/96

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 Articles 11 (4) and 21 thereof,

Whereas Commission Regulation (EC) No 703/97 of 18 April 1997 ⁽²⁾ introduces for a trial period from 1 July 1997 to 30 June 1998 a cumulative recovery system (CRS) for determining certain import duties on rice;

Whereas the system provided for in Regulation (EC) No 703/97 should be strengthened as regards the monitoring of minor imports not subject to presentation of an import licence;

Whereas the lodging of the monthly and CRS declarations within the time limits laid down is essential for the proper functioning of the CRS; whereas, as a result, failure to present and late presentation of declarations by CRS importers should be made subject to the same rules for the lodging of incomplete declarations;

Whereas it should be ensured that CRS importers cannot take advantage of the fact that on-the-spot checks cannot be carried out for reasons attributable to them; whereas, to that end, where a CRS importer is responsible for the failure of a physical check he should not only lose the right to the adjustment of import duties but also be charged ECU 50 per tonne for consignments imported during the halves of the trial period for which he has lost the right to the adjustment of import duties;

Whereas it is necessary to specify the time at which the amounts referred to in the second subparagraph of Article 9 (1) and the second subparagraph of Article 9 (2) of Regulation (EC) No 703/97 must be charged by the CRS authority;

Whereas it is useful to know the origin of the rice imported and the Annex to Regulation (EC) No 703/97 should therefore be amended;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 703/97 is hereby amended as follows:

1. The following subparagraph is added to Article 2 (3):

‘Where the import of a consignment is not subject to presentation of a licence or certificate in accordance with Articles 5 and 6 of Regulation (EEC) No 3719/88, the customs authority which accepted the declaration of release for free circulation shall forward a copy of that declaration to the CRS authority with which the importer is registered.’

2. Article 3 (4) is replaced by the following:

‘4. At the request of the CRS authority of the importer concerned, the competent customs authority shall analyze the samples taken in accordance with ISO standards 7301 and, as regards humidity and the milling yield, in accordance with ISO 712 and ISO 6646 respectively and send the results to the CRS authority concerned.’

3. The first subparagraph of Article 9 (1) is replaced by the following:

‘1. Where, for one or more consignments, the import price declared by a CRS importer cannot be verified on account of the late lodging or absence of a monthly declaration and/or CRS declaration, or the absence in the monthly declarations and/or CRS declarations of information, documents or other evidence provided for in this Regulation, the import price to be taken into consideration for the consignments concerned in the context of the CRS shall be that determined in accordance with Regulation (EC) No 1503/96 and applicable on the day when the declaration of release for free circulation was accepted.’

4. The following subparagraph is added to Article 9 (2):

‘In addition, save in cases of *force majeure*, an amount of ECU 50 per tonne shall be charged to the CRS importer concerned for the consignments imported during the halves of the trial period in respect of which he has lost the right to the adjustment of import duties.’

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 104, 22. 4. 1997, p. 12.

5. The following subparagraph is added to Article 10 (1):

'In addition, when determining the amounts referred to in point (a), it shall charge to the CRS importers concerned the amounts referred to in the second subparagraph of Article 9 (1) and the second subparagraph of Article 9 (2).'

6. The Annex to Regulation (EC) No 703/97 is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

Regulation (EC) No 703/97, Article 10 (5)

CRS authority (name of Member State):

Date:

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Name and address of the CRS importer (Article 2 (2))	Place and date of release for free circulation	Imported product CN code	Country of origin	Quantity tonnes	Declared import price in ecus/tonne	Duty valid on the day of release for free circulation in ecus/tonne	Duty calculated on the basis of the accepted imported price in ecus/tonne	Difference (f) – (g) in ecus/tonne	Justification of difference
							Balance:		

[illegible]

COMMISSION REGULATION (EC) No 1404/97
of 22 July 1997
amending Regulation (EEC) No 3719/88 as regards the use of computerized
systems for licences and certificates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Articles 9 (2) and 23 thereof, and the corresponding provisions of the other regulations establishing a common organization of the markets in agricultural products,

Whereas computerized systems are gradually replacing manual acquisition of data in the various areas of administration; whereas computerized and electronic methods should also be used for the issuing and utilization of licences and certificates;

Whereas Article 13 of Commission Regulation (EEC) No 3719/88⁽³⁾, as last amended by Regulation (EC) No 495/97⁽⁴⁾, stipulates that applications for licences and certificates are to be submitted in writing or other form of written telecommunication; whereas, in view of the growing utilization of computerized systems in administration, provision should also be made for licence and certificate applications to be submitted electronically;

Whereas licences and certificates are issued on special forms as provided for in Article 16 of Regulation (EEC) No 3719/88; whereas the use of computerized systems makes it possible to issue licences and certificates electronically if there is a link between the body issuing the latter and customs offices;

Whereas the use of computerized systems by the Member States must not call into question the Community status of licences and certificates and in particular the principle whereby they are valid and can be used throughout the Community;

Whereas computerized systems must be reliable and must meet security criteria ensuring that the system operates properly; whereas such criteria entail in particular checks on the source and security of data in view of the risk of

unauthorized access, loss, tampering and destruction and the possibility of ex-post checks; whereas, in order to ensure proper management of licence arrangements, computerized systems introduced by the Member States must be compatible with each other and the Commission should approve them periodically; whereas the reliability and security of the systems may be certified annually where circumstances so require;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3719/88 is hereby amended as follows:

1. Article 13 is replaced by the following:

Article 13

1. Applications for licences and certificates shall not be admissible unless they are forwarded to or lodged with the competent agency on forms printed and/or made out in accordance with Article 16.

However, competent agencies may accept written telecommunications and electronic messages as valid applications, provided all the information which would have appeared on the form, had it been used, is included. The Member States may require that the written telecommunication and/or electronic message be followed subsequently by an application on a form printed or made out in accordance with Article 16, forwarded or delivered direct to the competent agency; in those circumstances, the date of receipt of the written telecommunication or electronic message by the competent agency shall be deemed the day of application. This requirement shall not affect the validity of applications forwarded by written telecommunication or electronic message.

2. Application for licences and certificates may be cancelled only by letter, written telecommunication or electronic message received by the competent agency, except in cases of *force majeure*, by 1 p.m. on the day the application is lodged;

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁴⁾ OJ No L 77, 19. 3. 1997, p. 12.

2. the following Article 16a is inserted:

Article 16a

1. Without prejudice to Article 16, licences and certificates may be issued by computerized systems in accordance with detailed rules laid down by the competent authorities and after approval by the Commission. They are hereinafter known as "electronic licences and certificates".

Electronic licences and certificates must be identical with regard to their contents as licences and certificates on paper.

Approval by the Commission of a system for issuing electronic licences and certificates does not absolve the Member States from their obligations to ensure proper administration and control of licences and certificates thus issued and used.

2. Licences and certificates must be issued on paper if such licences or certificates, or extracts therefrom, are used in Member States which are not linked to the computerized system of issue. They must be so issued without delay or additional cost at the request of the holder or transferee of the licence or certificate.

Licences and certificates shall be issued in the form of the form referred to in Article 16 and shall contain the requisite endorsements and attributions in the event of partial use of an electronic licence or certificate. In such a case only one licence or certificate — the one issued on paper — shall be valid.'

Article 2

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

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1405/97

of 22 July 1997

laying down detailed rules for the application of Council Regulation (EC) No 3066/95 for the management in 1997 of a quota of preparations of a kind used in animal feeding falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria

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 Regulation (EC) No 3066/95 provides, in conjunction with the Europe Agreement concluded with Bulgaria⁽³⁾, for the opening of a Community tariff quota for 1997 for preparations of a kind used in animal feeding falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria; whereas that Regulation was amended with effect from 1 July 1997, in particular as regards the size of the quota and its period of application; whereas the necessary amendments to the detailed rules of application adopted for the quota concerned should therefore be laid down;

Whereas the customs duty applicable to imports within that quota is fixed at 20 % of the rate laid down in the CCT in force;

Whereas the type of management concerned requires close collaboration between the Member States and the Commission, which must, in particular, be able to monitor the progress made in using up the tariff quota and inform the Member States thereof;

Whereas the licences for the import of the products in question within the aforementioned quota should be issued after a scrutiny period and with the fixing, where necessary, of a single percentage reduction in the quantities applied for;

Whereas, in particular, steps should be taken to ensure that the products are of Bulgarian origin and the information to be included in applications and licences should be specified;

Whereas, with a view to the sound management of the scheme, the security relating to import licences should be fixed at ECU 25 per tonne;

Whereas Commission Regulation (EC) No 85/97⁽⁴⁾, as amended by Regulation (EC) No 1108/97⁽⁵⁾, lays down the detailed rules for the management of the quota in question; whereas, as a result of the amendment of Regulation (EC) No 3066/95 it should be repealed and replaced by this Regulation;

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

Products falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria and qualifying from 1 July 1997 for a reduced import duty pursuant to Regulation (EC) No 3066/95, may be imported into the Community in accordance with this Regulation.

The rate of duty applicable and the annual quantities that may be imported are set out in the Annex.

Article 2

To be eligible for the import arrangements provided for in this Regulation, products must be accompanied when released for free circulation by the proof of origin, in the form of either an EUR 1 certificate or an invoice declaration of origin issued or drawn up by the competent authorities in Bulgaria.

Article 3

1. Applications for import licences shall be lodged with the competent authorities of the Member States on the first working day of each week by 1 p.m., Brussels time. Licence applications must relate to at least five tonnes and not more than 500 tonnes of product.

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

⁽³⁾ OJ No L 358, 31. 12. 1994, p. 3.

⁽⁴⁾ OJ No L 17, 21. 1. 1997, p. 9.

⁽⁵⁾ OJ No L 162, 19. 6. 1997, p. 10.

2. Member States shall send the import licence applications to the Commission by telex or fax, by 6 p.m., at the latest, Brussels time, on the day they are lodged.

3. By the Friday following the day on which they are lodged, the Commission shall notify the Member States by telex or fax of the outcome of the licence applications.

4. Upon receipt of notification from the Commission, Member States shall issue the import licences. The term of validity of licences shall be calculated from the date they are actually issued.

5. The quantity released for free circulation may be no greater than that indicated in boxes 17 and 18 of the import licence. To that end, the figure '0' shall be entered in box 19 of the said licence.

Article 4

Import licence applications and licences shall include:

(a) in box 8, the word 'Bulgaria'; the licence carries an obligation to import from that country;

(b) in box 24, one of the following indications:

- Derecho de aduana reducido un 80 % [Anexo del Reglamento (CE) n° 1405/97]
- Nedsættelse af toldsats med 80 % (Bilag i forordning (EF) nr. 1405/97)
- Ermäßigung des Zolls um 80 % [Anhang der Verordnung (EG) Nr. 1405/97]

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

Done at Brussels, 22 July 1997.

— Τελωνειακός δασμός μειωμένος κατά 80 % [Παράρτημα του κανονισμού (ΕΚ) αριθ. 1405/97]

— 80 % customs duty reduction (Annex of Regulation (EC) No 1405/97)

— Droit de douane réduit de 80 % [Annexe du règlement (CE) n° 1405/97]

— Dazio doganale all'importazione ridotto dell'80 % [Allegato del regolamento (CE) n. 1405/97]

— Met 80 % verlaagd douanerecht (bijlage bij Verordening (EG) nr. 1405/97)

— Direito aduaneiro reduzido de 80 % [Anexo do Regulamento (CE) n° 1405/97]

— Tulli on alennettu 80 prosentilla [liite asetuksen (EY) N:o 1405/97]

— Nedsättning av tullsats med 80 % [Bilagan till förordning (EG) nr 1405/97].

Article 5

The security for the import licences provided for in this Regulation shall be ECU 25 per tonne.

Article 6

Regulation (EC) No 85/97 is hereby repealed.

Article 7

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

It shall apply with effect from 1 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

The following annual quantities of products falling within the CN codes indicated may be imported from Bulgaria at import duties equal to 20 % of the rate laid down in the CCT in force

(tonnes)

CN code	Description of goods	Annual quantity	
2309 90 31 2309 90 41	Preparations of a kind used in animal feeding	From 1 July 1997 to 30 June 1998	3 080
		From 1 July 1998 to 30 June 1999	3 220
		From 1 July 1999 to 30 June 2000	3 360
		From 1 July 2000	3 500

COMMISSION REGULATION (EC) No 1406/97

of 22 July 1997

laying down rules for the application of Council Regulation (EC) No 3066/95 as regards the management of a quota of cat and dog food put up for retail sale of CN code 2309 10 originating in Hungary

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 by the Europe Agreement concluded between the Community and its Member States of the one hand and Hungary of the other concessions on certain agricultural products were granted to Hungary;

Whereas in consequence of the accession of Austria, Finland and Sweden these concessions had to be adjusted to take account of trade in agricultural products between Austria and Hungary; whereas accordingly Regulation (EC) No 3066/95 opened for 1997 an autonomous tariff quota for cat and dog food put up for retail sale of CN code 2309 10 originating in Hungary; whereas that Regulation has been amended with effect from 1 July 1997 with regard in particular to the volume of the quota and the period for which it is granted; whereas the management adjustments required for the quota should therefore be adopted in good time;

Whereas the customs duty on imports under the quota has been set at 20 % of the duty set in the CCT;

Whereas management of the quota requires close co-operation between the Member States and the Commission, which must be able to monitor how much of the quota has been used up and inform Member States accordingly;

Whereas it should be stipulated that licences for imports under the quota are to be issued following a reflection

period and if necessary with all quantities applied for reduced by the same percentage;

Whereas the Hungarian origin of imports should be ensured and the entries required on applications and licences specified;

Whereas to ensure smooth operation of the quota system a security against import licences should be required of ECU 25 per tonne;

Whereas Commission Regulation (EC) No 86/97⁽³⁾, as amended by Regulation (EC) No 1108/97⁽⁴⁾, sets rules of application for the quota; whereas following amendment of Regulation (EC) No 3066/95 it should be repealed and replaced by this Regulation;

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

Products of CN code 2309 10 indicated in the Annex hereto originating in Hungary to which, in line with Annex I to Regulation (EC) No 3066/95, a customs duty of 20 % of the CCT duty rate in force applies from 1 July 1997 shall be imported into the Community on the terms of this Regulation.

Article 2

Products must be accompanied when entered for free circulation by proof of origin consisting of either an EUR 1 certificate or an invoice declaration issued or made out by the competent Hungarian authority.

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

⁽³⁾ OJ No L 17, 21. 1. 1997, p. 12.

⁽⁴⁾ OJ No L 162, 19. 6. 1997, p. 10.

Article 3

1. Import licence applications may be lodged with the competent authority of Member States on the first working day of each week up to 1 p.m. Brussels time. They must be for a quantity of not less than five tonnes and not more than 1 000 tonnes by weight.
2. Member States shall transmit applications to the Commission by telex or fax by 6 p.m. Brussels time on that day.
3. By the following Friday at the latest the Commission shall determine and notify Member States by telex or fax to what extent applications are to be met.
4. On receiving notification Member States shall issue the licences. Their period of validity shall run from the actual day of issue.
5. The quantity entered for free circulation may not exceed that shown in boxes 17 and 18 of the licence. To this effect the figure '0' shall be entered in box 19.

Article 4

Licence applications and licences shall carry:

- (a) in box 8, the entry 'Hungary'. The licence shall require importation from that country;
- (b) in box 24, one of the following entries:
 - Derecho de aduana reducido un 80 % [Anexo del Reglamento (CE) n° 1406/97]
 - Nedsættelse af toldsats med 80 % (Bilag i forordning (EF) nr. 1406/97)

- Ermäßigung des Zolls um 80 % [Anhang der Verordnung (EG) Nr. 1406/97]
- Τελωνειακός δασμός μειωμένος κατά 80 % [Παράρτημα του κανονισμού (ΕΚ) αριθ. 1406/97]
- 80 % customs duty reduction (Annex of Regulation (EC) No 1406/97)
- Droit de douane réduit de 80 % [Annexe du règlement (CE) n° 1406/97]
- Dazio doganale all'importazione ridotto dell'80 % [Allegato del regolamento (CE) n. 1406/97]
- Met 80 % verlaagd douanerecht (bijlage bij Verordening (EG) nr. 1406/97)
- Direito aduaneiro reduzido de 80 % [Anexo do Regulamento (CE) n° 1406/97]
- Tulli on alennettu 80 prosentilla [liite asetuksen (EY) N:o 1406/97]
- Nedsättning av tullsats med 80 % [Bilagan till förordning (EG) nr 1406/97].

Article 5

The security against import licences pursuant to this Regulation shall be ECU 25 per tonne.

Article 6

Regulation (EC) No 86/97 is hereby repealed.

Article 7

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

It shall apply with effect from 1 July 1997.

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

The following annual quantities that may be imported from Hungary under the CN code indicated below are granted an import duty reduction to 20 % of the CCT in force

(tonnes)

CN code	Description	Annual quantity	
2309 10	Cat and dog food put up for retail sale	From 1 July 1997 to 30 June 1998	12 430
		From 1 July 1998 to 30 June 1999	12 995
		From 1 July 1999 to 30 June 2000	13 560
		From 1 July 2000	14 125

COMMISSION REGULATION (EC) No 1407/97

of 22 July 1997

temporarily adapting the special arrangements for imports of rice laid down in Regulations (EEC) No 999/90 and (EEC) No 862/91 for the purpose of implementing the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations⁽¹⁾, as last amended by Regulation (EC) No 1161/97⁽²⁾, and in particular Article 3 (1) thereof,

Whereas Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the ACP States or in the overseas countries and territories (OCT)⁽³⁾, as last amended by Regulation (EC) No 619/96⁽⁴⁾ and Council Regulation (EEC) No 3491/90 of 26 November 1990 on imports of rice originating in Bangladesh⁽⁵⁾ provide for the reduction of the levy applicable to imports into the Community of rice from certain countries up to certain maximum quantities provided that the countries concerned levy an export charge;

Whereas Commission Regulation (EEC) No 999/90⁽⁶⁾, as last amended by Regulation (EC) No 1373/96⁽⁷⁾ and Commission Regulation (EEC) No 862/91⁽⁸⁾, as last amended by Regulation (EC) No 1373/96, lay down detailed rules for the application of the said special arrangements;

Whereas pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community is to replace variable levies by fixed customs duties from 1 July 1995; whereas this could prevent application of the special arrangements; whereas it is therefore necessary, pending the

conclusion of new agreements with the countries in question, to make transitional adjustments to the abovementioned Commission Regulations while maintaining the essential parts of the arrangements concerned;

Whereas levies are now replaced by customs duties and the reductions granted to third countries must be applied to the customs duties applicable from 1 July; whereas, in order not to prejudice the interests of the exporter countries, it is also necessary to replace the reduction of the component designed to protect the Community industry by a fixed reduction of the import duty;

Whereas the rates of duty set out in the common customs tariff for imports of husked rice falling within CN code 1006 20 and milled rice falling within CN code 1006 30 are those applicable on the date referred to in Article 67 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽⁹⁾, as last amended by Regulation (EC) No 82/97⁽¹⁰⁾;

Whereas, to ensure the correct application of the arrangements involving the collecting of an export charge, the import duty must be fixed in advance; whereas, therefore, the possibility of fixing the applicable duty on the date of submission of the import licence application should be maintained;

Whereas the security provided for in Article 10 of Commission Regulation (EC) No 1162/95⁽¹¹⁾, as last amended by Regulation (EC) No 932/97⁽¹²⁾, to cover imports carried out with advance fixing should be increased;

Whereas Regulation (EC) No 1373/96 lays down temporary measures until 30 June 1997 to facilitate the transition from the abovementioned special import arrangements;

Whereas Regulation (EC) No 1161/97 extends the period for transitional measures until 30 June 1998; whereas the measures provided for in Regulation (EC) No 1373/96 should be extended until 30 June 1998;

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽²⁾ OJ No L 169, 27. 6. 1997, p. 1.

⁽³⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁴⁾ OJ No L 89, 10. 4. 1996, p. 1.

⁽⁵⁾ OJ No L 337, 4. 12. 1990, p. 1.

⁽⁶⁾ OJ No L 101, 21. 4. 1990, p. 20.

⁽⁷⁾ OJ No L 178, 17. 7. 1996, p. 5.

⁽⁸⁾ OJ No L 88, 9. 4. 1991, p. 7.

⁽⁹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽¹⁰⁾ OJ No L 17, 21. 1. 1997, p. 1.

⁽¹¹⁾ OJ No L 117, 24. 5. 1995, p. 2.

⁽¹²⁾ OJ No L 135, 27. 5. 1997, p. 2.

Whereas, however, Council Regulation (EEC) No 1250/77 of 17 May 1977 concerning imports of rice from the Arab Republic of Egypt⁽¹⁾ was replaced by Council Regulation (EC) No 2184/96⁽²⁾; whereas it is therefore no longer necessary to provide for transitional measures for these arrangements;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 999/90 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

The customs duties referred to in Article 12 (1) of Regulation (EEC) No 715/90 shall be calculated every week by the Commission as follows:

- the duty applicable to imports of paddy rice falling within CN codes 1006 10 21 to 1006 10 98 shall be equal to the customs duties set out in the Common Customs Tariff less 50 %, less ECU 4,34,
- the duty applicable to imports of husked rice falling within CN code 1006 20 shall be equal to the duty fixed pursuant to Article 11 (2) of Regulation (EC) No 3072/95 less 50 %, less ECU 4,34,
- the duty applicable to imports of milled rice falling within CN code 1006 30 shall be equal to the duty fixed pursuant to Article 11 (2) of Regulation (EEC) No 3072/95 less ECU 16,78, less 50 %, less ECU 6,52,
- the duty applicable to imports of broken rice falling within CN code 1006 40 00 shall be equal to the duty set out in the Common Customs Tariff less 50 %, less ECU 3,62.'

2. Article 3 (2) is replaced by the following:

'2. The licence shall carry an obligation to import from the country of origin indicated. The import duty shall be that applicable on the date of submission of

the licence application. The amount shall be adjusted on the basis of the difference between the intervention price applicable during the month of the licence application and that applicable on the date of release into free circulation, the difference being increased by:

- 80 % in the case of husked Indica rice,
- 163 % in the case of milled Indica rice,
- 88 % in the case of husked Japonica rice,
- 167 % in the case of milled Japonica rice.

The rice referred to in Article 3 of Commission Regulation (EC) No 1503/96^(*) shall be considered to be Indica and Japonica rice.

^(*) OJ No L 189, 30. 7. 1996, p. 71.'

3. In Articles 2 (1), (2) and (3) and 3 (1), (3) and (4), 'levy' is replaced by 'customs duties'.

Article 2

Regulation (EEC) No 862/91 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

The customs duties referred to in Article 1 (1) of Regulation (EEC) No 3491/90 shall be calculated each week by the Commission as follows:

- the duty applicable to imports of paddy rice falling within CN code 1006 10, with the exception of that falling within CN code 1006 10 10, shall be equal to the customs duties set out in the Common Customs Tariff less 50 %, less ECU 4,34,
- the duty applicable to imports of husked rice falling within CN code 1006 20 shall be equal to the duty fixed pursuant to Article 11 (2) of Regulation (EEC) No 3072/95 less 50 %, less ECU 4,34,
- the duty applicable to imports of milled rice falling within CN code 1006 30 shall be equal to the duty fixed pursuant to Article 11 (2) of Regulation (EC) No 3072/95 less ECU 16,78, less 50 %, less ECU 6,52.'

2. Article 4 (2) is replaced by the following:

'2. The import licence, issued for a quantity not exceeding that entered on the certificate of origin referred to in Article 2, shall carry an obligation to import from Bangladesh. The import duty shall be that

⁽¹⁾ OJ No L 146, 14. 6. 1977, p. 9.

⁽²⁾ OJ No L 292, 15. 11. 1996, p. 1.

applicable on the date of submission of the licence application. The amount shall be adjusted on the basis of the difference between the intervention price applicable during the month of the licence application and that applicable on the date of release into free circulation, the difference being increased by:

- 80 % in the case of husked Indica rice,
- 163 % in the case of milled Indica rice,
- 88 % in the case of husked Japonica rice,
- 167 % in the case of milled Japonica rice.

The rice referred to in Article 3 of Commission Regulation (EC) No 1503/96 (*) shall be considered to be Indica and Japonica rice.

(*) OJ No L 189, 30. 7. 1996, p. 71.

3. In Article 4 (1), (3) and (4), 'levy' is replaced by 'customs duties'.

Article 3

Notwithstanding Article 10 of Regulation (EC) No 1162/95, the security for licences issued pursuant to Regulations (EEC) No 999/90 and (EEC) No 862/91 shall be ECU 28 per tonne.

Article 4

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

It shall apply from 1 July 1997 to 30 June 1998.

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1408/97

of 22 July 1997

relating to a standing invitation to tender to determine levies and/or refunds on exports of white sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾, and in particular Articles 13 (2), 17 (5) and (15), 20 (3) and the second paragraph of Article 39 thereof,

Whereas, in conformity with Article 20 of Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates⁽³⁾, as last amended by Regulation (EC) No 1482/96⁽⁴⁾, the amounts of tenders submitted within the framework of an invitation to tender organized by virtue of a measure relating to the common agricultural policy will be expressed in ecus; whereas Article 3 (3) of Commission Regulation (EC) No 1464/95 of 27 June 1995 on special detailed rules for the application of the system of import and export licences in the sugar sector⁽⁵⁾, as amended by Regulation (EC) No 2136/95⁽⁶⁾, provides that the amounts of the successful tenders shall be expressed in ecus on the licences and other documents certifying those amounts; whereas the value of the ecu shall be determined in accordance with Articles 2 and 3 of Council Regulation (EEC) No 3813/92⁽⁷⁾, as last amended by Regulation (EC) No 150/95⁽⁸⁾;

Whereas in view of the situation on the Community and world sugar markets, a standing invitation to tender should be issued as soon as possible for the export of white sugar in respect of the 1997/98 marketing year which, having regard to possible fluctuations in world prices for sugar, must provide for the determination of export levies and/or export refunds;

Whereas, the general rules governing invitations to tender for the purpose of determining export refunds for sugar were established by Article 17a of Regulation (EEC) No 1785/81;

Whereas, in view of the specific nature of the operation, appropriate provisions should be laid down with regard to

export licences issued in connection with the standing invitation to tender and there should be a derogation from Commission Regulation (EC) No 1464/95; whereas, however, the provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁹⁾, as last amended by Regulation (EC) No 495/97⁽¹⁰⁾, and those of Commission Regulation (EEC) No 120/89 of 19 January 1989 laying down common detailed rules for the application of the export levies and charges on agricultural products⁽¹¹⁾, as last amended by Regulation (EC) No 2194/96⁽¹²⁾, should remain applicable;

Whereas Article 13 (1) of Regulation (EEC) No 1068/93 provides that where agricultural conversion rates are fixed in advance, on application by the party concerned, on the terms referred to in the second subparagraph of Article 6 (1) of Regulation (EEC) No 3813/92, such application must be lodged at the same time as the submission of the tender as part of a tendering procedure; whereas, for reasons specific to the sugar market, when an operator intends to take up the option of an advance fixing of an agricultural conversion rate, his decision shall be made only when the application for the export certificate in question is lodged; whereas in practice he may only apply for advance fixing of the agricultural conversion rate in question after having been declared successful tenderer in respect of the levy or refund for the quantity of sugar indicated in his tender; whereas in the case of the present tendering procedure, a derogation must be made from the said provisions, leaving the tenderer the option of applying for advance fixing of the agricultural conversion rate at the time when the application for the export certificate in question is lodged;

Whereas the standing invitation to tender for the 1996/97 marketing year established by Commission Regulation (EC) No 1464/96⁽¹³⁾, remains open until a date to be determined subsequently; whereas that invitation should therefore be closed;

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

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁴⁾ OJ No L 188, 27. 7. 1996, p. 22.

⁽⁵⁾ OJ No L 144, 28. 6. 1995, p. 14.

⁽⁶⁾ OJ No L 214, 8. 9. 1995, p. 19.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁹⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽¹⁰⁾ OJ No L 77, 19. 3. 1997, p. 12.

⁽¹¹⁾ OJ No L 16, 20. 1. 1989, p. 19.

⁽¹²⁾ OJ No L 293, 16. 11. 1996, p. 3.

⁽¹³⁾ OJ No L 187, 26. 7. 1996, p. 42.

HAS ADOPTED THIS REGULATION:

Article 1

1. A standing invitation to tender shall be issued in order to determine export levies and/or export refunds on white sugar covered by CN code 1701 99 10 and, during the period of validity of this standing invitation, partial invitations to tender shall be issued.

2. The standing invitation to tender shall remain open until a date to be determined later.

Article 2

The standing invitation to tender and the partial invitation shall be conducted in accordance with Article 17a of Regulation (EEC) No 1785/81 and with the following provisions.

Article 3

1. The Member States shall establish a notice of invitation to tender. The notice of invitation to tender shall be published in the *Official Journal of the European Communities*. Member States may also publish the notice, or have it published, elsewhere.

2. The notice shall indicate, in particular, the terms of the invitation to tender.

3. The notice may be amended during the period of validity of the standing invitation to tender. It shall be so amended if the terms of the invitation to tender are modified during that period.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender:

(a) shall begin on 31 July 1997;

(b) shall end on 6 August 1997 at 10.30 a.m.

2. The periods during which tenders may be submitted in response to the second and subsequent partial invitations:

(a) shall begin on the first working day following the end of the preceding period;

(b) shall end at 10.30 a.m. on the Wednesday of the following week.

3. Notwithstanding paragraph 2 (b), the period for the submission of tenders which was to end on:

— Wednesday 12 November 1997, shall end on Thursday 13 November 1997 at 10.30 a.m.,

— Wednesday 15 July 1998, shall end on Thursday 16 July 1998 at 10.30 a.m.

4. Notwithstanding paragraph 2, no partial invitations to tender will be issued on Wednesday 24 and 31 December 1997 or 8 April 1998.

5. The time limits laid down in this Regulation are expressed in Belgian time.

Article 5

1. Offers in connection with this tender must be in writing, and must be either delivered by hand, against a receipt, to the competent authority in a Member State, or addressed to that authority by registered letter, telex, telegram or fax.

2. An offer must indicate:

(a) the reference number of the invitation to tender to which the offer relates;

(b) the name and address of the tenderer;

(c) the quantity of white sugar to be exported;

(d) the amount of the export levy or, where applicable, of the export refund, per 100 kilograms of white sugar, expressed in ecus to three decimal places;

(e) the minimum amount of the security to be lodged covering the quantity of sugar indicated in (c), expressed in the currency of the Member State in which the tender is submitted.

3. An offer shall be valid only if:

(a) the quantity to be exported is not less than 250 tonnes of white sugar;

(b) proof is furnished before expiry of the time limit for the submission of tenders that the tenderer has lodged the security indicated in the tender;

(c) it includes a declaration by the tenderer that if this tender is successful he will, within the period laid down in Article 12 (b), apply for an export licence or licences in respect of the quantities of white sugar to be exported;

(d) it includes a declaration by the tenderer that if his tender is successful he will:

— where the obligation to export resulting from the export licence referred to in Article 12 (b) is not fulfilled, supplement the security by payment of the amount referred to in Article 13 (4), and

— within 30 days following the expiry of the export licence in question, notify the agency which issued the licence of the quantity or quantities in respect of which the licence was not used;

(e) it contains all the information required under paragraph 2.

4. A tender may stipulate that it is to be regarded as having been submitted only if:

- (a) the minimum export levy or, where applicable, the maximum export refund is fixed on the day of the expiry of the period for the submission of the tenders in question;
- (b) the tender, if successful, related to all or a specified part of the tendered quantity.

5. A tender which is not submitted in accordance with the provisions of this Regulation, or which contains terms other than those indicated in the present invitation to tender, shall not be considered.

6. Once submitted, a tender may not be withdrawn.

Article 6

1. A security of ECU 11 per 100 kilograms of white sugar to be exported under this invitation to tender must be lodged by each tenderer. Without prejudice to Article 13 (4), this security shall in the case of successful tenderers and at the time of the application referred to in Article 12 (b), become the security for the export licence.

2. The security may be lodged at the tenderer's choice, either in cash or in the form of a guarantee given by an establishment complying with criteria laid down by the Member State in which the tender is submitted.

3. Export in cases of *force majeure*, the security referred to in paragraph 1 will be released:

- (a) to unsuccessful tenderers in respect of the quantity for which no award has been made;
- (b) to successful tenderers who have not applied for the relevant export licence within the period referred to in Article 12 (b), to the extent of ECU 10 per 100 kilograms of white sugar. However, this part of the releasable security shall be reduced by the amount representing the difference existing, as applicable:
 - between the maximum amount of the export refund fixed for the partial invitation concerned and the maximum amount of the export refund fixed for the following partial invitation when the latter amount is higher than the former, or
 - between the minimum amount of the export levy fixed for the partial invitation concerned and the minimum amount of the export levy fixed for the following partial invitation when the latter amount is lower than the former;
- (c) to successful tenderers for the quantity for which they have fulfilled, within the meaning of Articles 29 (b) and 30 (1) (b) (i) of Regulation (EEC) No 3719/88, the

export obligation resulting from the licence referred to under Article 12 (b) in accordance with the terms of Article 33 of that Regulation.

The part of the security or the security which is not released shall be forfeit in respect of the quantity of sugar for which the corresponding obligations have not been fulfilled.

4. In case of *force majeure*, the competent authority of the Member State concerned shall take such action as it considers necessary having regard to the circumstances invoked by the party concerned.

Article 7

1. Tenders shall be examined in private by the competent authority concerned. The persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Tenders shall be communicated to the Commission forthwith and in such manner that the tenders remain anonymous.

Article 8

1. After the tenders received have been examined, a maximum quantity may be fixed for the partial invitation concerned.

2. A decision may be taken to make no award under a specific partial invitation to tender.

Article 9

1. In the light of the current state and foreseeable development of the Community and world sugar markets, there shall be fixed either:

- a minimum export levy, or
- a maximum export refund.

2. Subject to Article 10, where a minimum export levy is fixed, a contract shall be awarded to every tenderer whose tender quotes a rate of levy equal to or greater than such minimum levy.

3. Subject to Article 10, where a maximum export refund is fixed, a contract shall be awarded to every tenderer whose tender quotes a rate of refund equal to or less than such maximum refund and to every tenderer who has tendered for an export levy.

Article 10

1. Where a maximum quantity has been fixed for a partial invitation to tender:

- if a minimum levy is fixed, a contract shall be awarded to the tenderer whose tender quotes the highest levy; if the maximum quantity is not fully covered by that award, awards shall be made to other tenderers in descending order of levies quoted until the entire maximum quantity has been accounted for,
- if a maximum refund is fixed, contracts shall be awarded in accordance with the first indent; if after such awards a quantity is still outstanding, or if there are no tenders quoting an export levy, awards shall be made to tenderers quoting a refund in ascending order or refunds quoted until the entire maximum quantity has been accounted for.

2. However, where an award to a particular tenderer in accordance with the provisions of paragraph 1 would result in the maximum quantity being exceeded, that award shall be limited to such quantity as is still available. Where two or more tenderers quote the same levy or the same refund and awards to all of them would result in the maximum quantity being exceeded, then the quantity available shall be awarded as follows:

- by being divided among the tenderers concerned in proportion to the total quantities in each of their tenders, or
- by being apportioned among the tenderers concerned by reference to a maximum tonnage to be fixed for each of them, or
- by the drawing of lots.

Article 11

1. The competent authority of the Member State concerned shall immediately notify applicants of the result of their participation in the invitation to tender. In addition, that authority shall send successful tenderers a statement of award.

2. The statement of award shall indicate at least:

- (a) the reference number of the invitation to which the tender relates;
- (b) the quantity of white sugar to be exported;
- (c) the amount expressed in ecus of the export levy to be charged, or where applicable of the export refund to be granted per 100 kilograms of white sugar of the quantity referred to in (b).

Article 12

Every successful tenderer shall have:

- (a) the right to receive in the circumstances referred to under (b), in respect of the quantity awarded, an export licence indicating as appropriate, the export levy or the export refund quoted in his tender;

- (b) the obligation to lodge, in accordance with the relevant provisions of Regulation (EEC) No 3719/88, an application for an export licence in respect of that quantity, the application not being revocable and Article 12 of Regulation (EEC) No 120/89 not applying in such a case. The application shall be lodged in accordance with the relevant provisions of Regulation (EEC) No 3719/88, not later than:

- the last working day preceding the date of the partial invitation to tender to be held the following week, or

- if no partial invitation to tender is due to be held that week, the last working day of the following week;

- (c) the obligation to export the tendered quantity and, if this obligation is not fulfilled, to pay, where necessary, the amount referred to in Article 13 (4).

This right and these obligations are not transferable.

Article 13

1. The first paragraph of Article 9 of Regulation (EC) No 1464/95 shall not apply to the white sugar to be exported in accordance with this Regulation.

2. Export licences issued in connection with a partial invitation to tender shall be valid from the day of issue until the end of the fifth calendar month following that in which the partial invitation was issued.

However, export licences issued in respect of the partial invitations held from 1 May 1998 will be valid only until 30 September 1998.

The competent authorities in the Member State which issued the export licence may, at the written request of the holder of that licence, extend its validity to 15 October 1998 at the latest where technical difficulties arise which prevent export being carried out by the expiry date laid down in paragraph 2, provided that export is not subject to the rules laid down in Article 4 or 5 of Council Regulation (EEC) No 565/80⁽¹⁾.

3. The export licences issued in respect of the partial invitations held between 6 August and 30 September 1997 will be usable only from 1 October 1997.

4. Export in cases of *force majeure*, if the obligation to export resulting from the export licence referred to under Article 12 (b) has not been fulfilled and if the security referred to in Article 6 is less than:

⁽¹⁾ OJ No L 62, 7. 3. 1980, p. 5.

- (a) the export levy indicated on the licence reduced by the levy referred to in the second subparagraph of Article 20 (1) of Regulation (EEC) No 1785/81 in force on the last day of validity of the said licence; or
- (b) the sum of the export levy indicated on the licence and the refund referred to in Article 17a (2) of Regulation (EEC) No 1785/81 in force on the last day of validity of the said licence; or
- (c) the export refund referred to in Article 17a (2) of Regulation (EEC) No 1785/81 in force on the last day of validity of the licence reduced by the refund indicated on the said licence,

then, for the quantity in respect of which the said obligation was not fulfilled, the licence holder shall be charged an amount equal to the difference between the result of the valuation made under (a), (b) or (c), as the case may be, and the security referred to in Article 6 (1).

Article 14

If the tenderer intends to apply for advance fixing of the agricultural conversion rate under this standing invitation to tender, the provisions of the second indent of Article 13 (1) of Regulation (EEC) No 1068/93 shall not apply.

Article 15

1. Notwithstanding Article 7 of Commission Regulation (EC) No 2135/95⁽¹⁾, if the intervention prices fixed in ecus pursuant to Regulation (EEC) No 1785/81 or the storage levies fixed in ecus pursuant to that Regulation are amended during the interval between the day of expiry of the period for submission of tenders and the day of export, the amounts of the export refunds and the export levies fixed under the terms of this invitation to tender before 1 July 1998, for the sugar exported from that date, shall be adjusted.

2. For the adjustment referred to in paragraph 1:

- (a) in the event of the fixing of an intervention price for white sugar applicable with effect from 1 July 1998 which is greater than that in force on 30 June 1998 the export refund and the export levy shall be adjusted

by an amount equal to the difference expressed in ecus per 100 kilograms existing between the intervention price for white sugar applicable with effect from 1 July 1998 and the intervention price for that sugar in force on 30 June 1998;

- (b) in the event of the fixing of an intervention price for white sugar applicable with effect from 1 July 1998 which is lower than that in force on 30 June 1998, the export refund and the export levy shall be adjusted by an amount equal to the difference expressed in ecus per 100 kilograms existing between the intervention price for white sugar in force on 30 June 1998 and the intervention price for that sugar applicable with effect from 1 July 1998.

3. For the calculation of the differences referred to in paragraph 2, the intervention prices in question shall be increased by the corresponding storage levy referred to in the second subparagraph of Article 8 (2) of Regulation (EEC) No 1785/81.

4. Where only the amount of the storage levy varies from one marketing year to the next, the refund shall be adjusted by applying the provisions of paragraph 2 (a) or 2 (b), as appropriate.

5. For the purposes of this Article, the Member State issuing the relevant export licence shall, at the time of issue, complete the 'special particulars' section by adding the following:

'to be adjusted in accordance with tender Regulation (EC) No 1408/97 for exports which take place after 30 June 1998.'

6. The adjustment shall be made when the export refund in question is paid.

7. Member States shall inform the Commission as quickly as possible of the quantities of sugar for which an adjustment under this Article has been made.

Article 16

The standing invitation to tender referred to in Regulation (EC) No 1464/96 shall be closed on 31 July 1997.

Article 17

This Regulation shall enter into force on 31 July 1997.

⁽¹⁾ OJ No L 214, 8. 9. 1995, p. 16.

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1409/97

of 22 July 1997

determining the extent to which the applications for import licences submitted in July 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 1165/97⁽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 July to 30 September 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 September 1997, shall be awarded in accordance with the allocation factors indicated.

Article 2

This Regulation shall enter into force on 23 July 1997.

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 151, 1. 7. 1995, p. 12.

⁽²⁾ OJ No L 169, 27. 6. 1997, p. 6.

ANNEX

Order number in Annex II to Regulation (EC) No 1600/95	Allocation factor
37	0,0071
38	0,0034
40	0,1666
41	0,0063
42	0,0231
43	0,0086
45	0,0043
48	0,0031

COMMISSION REGULATION (EC) No 1410/97**of 22 July 1997****amending representative prices and additional duties for the import of certain products in the sugar sector**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses⁽³⁾, as last amended by Regulation (EC) No 1143/97⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1222/97⁽⁵⁾, as last amended by Regulation (EC) No 1361/97⁽⁶⁾;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 23 July 1997.

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

Done at Brussels, 22 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 165, 24. 6. 1997, p. 11.

⁽⁵⁾ OJ No L 173, 1. 7. 1997, p. 3.

⁽⁶⁾ OJ No L 186, 16. 7. 1997, p. 23.

ANNEX

to the Commission Regulation of 22 July 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	24,93	3,83
1701 11 90 ⁽¹⁾	24,93	9,07
1701 12 10 ⁽¹⁾	24,93	3,67
1701 12 90 ⁽¹⁾	24,93	8,64
1701 91 00 ⁽²⁾	28,68	10,89
1701 99 10 ⁽²⁾	28,68	6,37
1701 99 90 ⁽²⁾	28,68	6,37
1702 90 99 ⁽³⁾	0,29	0,36

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

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

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 1411/97**of 22 July 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 23 July 1997.

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

Done at Brussels, 22 July 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 22 July 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
0709 90 77	052	60,9
	999	60,9
0805 30 30	366	58,4
	388	65,0
	524	50,3
	528	58,6
	999	58,1
0808 10 71, 0808 10 73, 0808 10 79	388	86,5
	400	76,1
	508	88,4
	512	67,5
	524	72,4
	528	69,0
	800	154,7
	804	91,1
	999	88,2
	388	68,9
0808 20 51	512	53,5
	528	52,5
	804	84,8
	999	64,9
0809 10 40	064	99,2
	999	99,2
0809 20 59	052	227,0
	064	183,6
	068	157,0
	400	235,7
	616	180,9
0809 40 30	999	196,8
	064	96,9
	999	96,9

⁽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)

COMMISSION

COMMISSION DECISION

of 30 July 1996

amending for the fourth time Decision No 95/33/EC approving parts of the Finnish programme for the implementation of Articles 138 to 140 of the Act concerning the conditions of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden

(Only the Finnish and Swedish texts are authentic)

(97/449/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Act of Accession of Austria, Finland and Sweden, and in particular Article 138 thereof,

Whereas on 26 October 1994 Finland notified the Commission, pursuant to Article 143 of the Act of Accession, of the Finnish programme for the implementation of its aid schemes under Articles 138, 139 and 140 in respect of a number of products and activities for the period 1995 to 1999 inclusive;

Whereas parts of this programme, as modified by letter dated 16 December 1994, were approved by Commission Decision 95/33/EC⁽¹⁾; whereas that Decision was amended by Decisions 95/330/EC⁽²⁾, 95/529/EC⁽³⁾ and 96/188/EC⁽⁴⁾;

Whereas on 18 July 1996 Finland notified the Commission, pursuant to Article 143 of the Act of Accession, of a request for Commission authorization to modify that programme as regards the decrease in the aid rate for certain products;

Whereas Finland considers that the decrease in the amount of the aid for producers of certain products set out in Decision 95/33/EC is excessive;

Whereas a reduction of the decrease in the amount of the aid will give farmers the opportunity of carrying out structural measures to support more easily the total disappearance of the aid at the end of the transitional period;

Whereas this modification of carrying out the decrease in the aid rate is in accordance with the provisions of the Act of Accession and in particular with the second paragraph of Article 138 (1) thereof, since that Article does not provide specific rules as to the amount of the decrease;

Whereas the modification of the decrease in the aid will not mean an extension of the duration of the aid under Article 138 beyond the transitional period laid down in the Act of Accession,

⁽¹⁾ OJ No L 43, 25. 2. 1995, p. 56.

⁽²⁾ OJ No L 191, 12. 8. 1995, p. 37.

⁽³⁾ OJ No L 302, 15. 12. 1995, p. 33.

⁽⁴⁾ OJ No L 60, 9. 3. 1996, p. 25.

HAS ADOPTED THIS DECISION:

Article 1

The aid levels in Annexes I and II to Decision 95/33/EC, for 1997 onwards, for the concerned products, are hereby replaced by the following:

Production-related aid	Maximum rate of aid in FMK/kg for production in each of the years shown			
	1997	1998	1999	2000
Milk ⁽¹⁾				
A and B regions excluding archipelago	0,49	0,44	0,39	0
Archipelago, regions A and B	0,58	0,52	0,47	0
Other regions excluding archipelago ⁽²⁾	0,37	0,22	0,11	0
Archipelago, other regions ⁽²⁾	0,48	0,27	0,11	0

⁽¹⁾ No monthly differentiation in 1997-1999.

⁽²⁾ No change from Decision 95/33/EC.

Area-related aid	Maximum rate of aid FMK/ha in each of the years shown			
	1997	1998	1999	2000
Greenhouses				
Regions A and B	80 ⁽¹⁾	80 ⁽¹⁾	80 ⁽¹⁾	0
Other regions	75 ⁽¹⁾	52 ⁽¹⁾	26 ⁽¹⁾	0
Horticultural product stores				
— with thermo-control systems, regions A and B	120 ⁽²⁾	110 ⁽²⁾	100 ⁽²⁾	0
— without thermo-control systems, regions, A and B	80 ⁽²⁾	75 ⁽²⁾	70 ⁽²⁾	0

⁽¹⁾ FMK/m² of greenhouse area producing live plants, floriculture products and vegetables.

⁽²⁾ Maximum rate of aid in FMK/m³ of storage capacity used for fruit and vegetables by primary producers and producer organizations which are producers of basic agricultural products.

Headage-related aid	Maximum rate of aid in FMK/animal (Animals on the farm on 1 May of each year shown) ⁽¹⁾			
	1997	1998	1999	2000
Suckler cows				
Regions A and B	540	486	437	0
Other regions ⁽²⁾	500	350	200	0
Sows				
Regions A and B	1 458	1 312	1 181	0
Other regions ⁽²⁾	1 200	750	350	0

Headage-related aid	Maximum rate of aid in FMK/animal (Animals on the farm on 1 May of each year shown)(¹)			
	1997	1998	1999	2000
Point of lay pullets				
Regions A and B	2,33	2,10	1,89	0
Other regions (²)	1,95	1,30	0,65	0
Parent hens (for broiler production)				
Regions A and B	55,08	49,57	44,61	0
Other regions (²)	45,90	30,60	15,30	0
Parent turkeys (for meat and eggs) and other poultry				
Regions A and B	81,00	72,90	65,61	0
Other regions (²)	67,50	45,00	22,50	0
Nanny goats				
Regions A and B	1 035	932	838	0
Other regions (¹)	900	650	400	0
Headage-related aid	Maximum rate of aid in FMK/LU (⁴) (Animals on the farm on 1 May of each year shown)			
Archipelago in regions A and B				
Bovines, ewes	1 530	1 377	1 239	0
Archipelago, other regions				
Bovines, ewes (²)	1 100	700	350	0
WITHIN REGION B				
Dairy cows				
— municipalities of Ikaalinen, Jämijärvi, Kankaanpää, Pomarkku	360	324	292	0
— municipalities of Hartola, Mäntyharju	270	243	219	0
Beef				
— municipalities of Ikaalinen, Jämijärvi, Kankaanpää, Pomarkku	297	267	241	0
— municipalities of Kiikoinen, Kullaa, Lavia, Mouhijärvi, Noormarkku, Pori, Suodenniemi, Juupajoki, Längelmäki, Kuhmalahti, Jämsä, Kuhmoinen, Hartola, Mäntyharju	90	81	73	0
Ewes				
All municipalities named above under 'dairy cows' and 'beef'	585	527	474	0
Horses				
Regions A and B	2 790	2 511	2 260	0
Other regions (²)	2 500	1 800	1 000	0

(¹) The number of animals may alternatively be measured as an annual average.

(²) No change from Decision 95/33/EC.

(³) Amended by Decision 95/330/EC.

(⁴) LU = Livestock unit

(mares for breeding = 1 LU; work horse = 0,85 LU; trotter, riding horse, pony = 0,60 LU; ewes, goats = 0,15 LU; dairy cows, suckler cows, bovines > two years = 1 LU; bovine six months to two years = 0,6 LU).

Production-related aid	Maximum rate of aid in FMK/kg production in each of the years shown ⁽¹⁾			
	1997	1998	1999	2000
Areas A and B excluding archipelago				
Beef, light, < 220 kg, carcase weight ⁽²⁾	4,61	4,15	3,73	0
Beef, heavy ⁽²⁾	5,96	5,36	4,83	0
Cow meat ⁽²⁾	0,54	0,49	0,44	0
Lamb and sheep meat ⁽³⁾	9,68	8,72	7,84	0
Pigmeat	2,48	2,24	2,01	0
Eggs	1,95	1,76	1,58	0
Archipelago in areas A and B				
Beef, light, < 220 kg, carcase weight ⁽²⁾	7,79	7,01	6,31	0
Beef, heavy ⁽²⁾	9,55	8,59	7,73	0
Lamb and sheep meat ⁽³⁾	14,96	13,46	12,12	0
Pigmeat	2,93	2,64	2,38	0
Eggs	2,40	2,16	1,95	0
Others areas excluding archipelago				
Beef, light, < 220 kg, carcase weight ^{(2) (*)}	3,24	1,94	0,89	0
Beef, heavy ^{(2) (*)}	4,74	2,94	1,89	0
Cow meat ^{(2) (*)}	0,20	0,00	0,00	0
Lamb and sheep meat ⁽³⁾	7,76	5,14	2,43	0
Pigmeat ⁽⁴⁾	2,07	1,32	0,71	0
Eggs ⁽⁴⁾	1,60	1,03	0,52	0
Archipelago in other areas				
Beef, light, < 220 kg, carcase weight ^{(2) (*)}	6,77	3,50	0,89	0
Beef, heavy ^{(2) (*)}	8,73	3,94	1,89	0
Lamb and sheep meat ⁽³⁾	13,24	8,05	4,29	0
Pigmeat ⁽⁴⁾	2,57	1,57	0,71	0
Eggs ⁽⁴⁾	2,10	1,28	0,52	0
Regions A and B				
Poultry meat (broiler)	1,94	1,74	1,57	0
Turkey meat, other poultry	2,24	2,02	1,82	0
Other regions				
Poultry meat (broiler) ⁽⁴⁾	1,61	1,08	0,49	0
Turkey meat, other poultry ⁽⁴⁾	1,79	1,20	0,55	0

⁽¹⁾ Granted only on the basis of the area or headage/livestock unit in conformity with the conversion rates approved by Commission Decision of 18 December 1995 (96/18/EC).

⁽²⁾ No monthly differentiation in 1997 to 1999.

⁽³⁾ Amended by Decision 95/330/EC.

⁽⁴⁾ No change from Decision 95/33/EC.

Article 2

This Decision is addressed to the Republic of Finland.

Done at Brussels, 30 July 1996.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION
of 4 December 1996
concerning State aid in favour of Bestwood E.F. Kynder GmbH i. GV
(Only the German text is authentic)
(Text with EEA relevance)

(97/450/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 establishing the European Economic Area, and in particular the first subparagraph of Article 62 (1) thereof,

Having given notice in accordance with Article 93 of the EC Treaty to interested parties to submit their comments,

Whereas:

I

On 2 December 1995, the Commission decided to open proceedings under Article 93 (2) of the EC Treaty against State aid to Bestwood E.F. Kynder GmbH ('Bestwood'), now Bestwood GmbH i. GV, in Mecklenburg-Vorpommern which was one of Germany's biggest producers of chipboard and fibreboard products with some 500 workers and has since filed for bankruptcy and disappeared from the market.

Bestwood was formerly State owned and was privatized by the Treuhandanstalt in 1991 when it received aid totalling DM 77 million in guarantees and DM 52 million in payments, mainly on the basis of aid schemes which had been approved by the Commission, in particular on the basis of the former Treuhandregime. Bestwood, however, had also received a long-term loan of DM 5 million at an interest rate of 4 % a year within the framework of the consolidation programme of the Land Mecklenburg-Vorpommern, an aid scheme which had been approved by the Commission in 1994. The approval was on condition that loans awarded to enterprises exceeding the ceiling for small and medium-sized enterprises (SMEs) be notified to the Commission individually. The loan in question was not notified to the Commission although Bestwood was far from being an SME within the meaning of the definition in Commission Recommendation 96/280/EC⁽¹⁾.

The attempt to privatize the enterprise in 1991 was unsuccessful however. There were many irregularities in

the privatization process and the purchaser was suspected of having misappropriated the aid granted during the privatization process. Consequently, the German public prosecutors started investigations. The former owner left for Switzerland. Meanwhile, a German court decided to allow the authorities of Mecklenburg-Vorpommern to seize control of all the assets of the former owner which are located in Germany in order to secure their claims for compensation.

The irregularities linked with the privatization had led to continuing economic problems in the enterprise since it still produced in an old-fashioned, ineffective way using antiquated machines. In December 1994, the shares of Bestwood were transferred against payment of DM 2 to a shareholding company of the NordLB, a bank which is wholly State owned. The object of that transfer was to find as quickly as possible a new purchaser for Bestwood and to develop a restructuring concept which would ensure the future profitability and viability of the enterprise.

In the context of that takeover, Bestwood had received a 'risk exemption' in the form of a guarantee by the Land Mecklenburg-Vorpommern for a loan by the NordLB for an amount of DM 25 million. That guarantee was not notified to the Commission either.

Germany also indicated that it would try to privatize Bestwood a second time and that this privatization might require additional aid amounting to DM 100 million.

The Commission concluded that both the DM 5 million long-term loan and the DM 25 million guarantee constituted aid which should have been notified to the Commission pursuant to Article 93 (3) of the EC Treaty. It also had serious doubts as to the compatibility of that aid with the derogations set out in Article 92 (3) (a) and (c) of the EC Treaty, in particular with the Community guidelines on State aid for rescuing and restructuring of firms in difficulties⁽²⁾. It therefore decided to open the procedure under Article 93 (2) of the EC Treaty against the aid. In order to expedite the proceeding and to be in a

⁽¹⁾ OJ No L 107, 30. 4. 1996, p. 4.

⁽²⁾ OJ No C 368, 23. 12. 1994, p. 12.

position to examine any aid to Bestwood at one time, it was also decided to include the new aid envisaged for the second privatization in the proceeding.

The letter to Germany was published in the *Official Journal of the European Communities*⁽¹⁾.

II

By letter dated 29 January 1996, Germany informed the Commission that the interest rate for the DM 5 million loan had been increased to 6,62 % with retroactive effect to the date of the award of the credit.

By letter dated 1 February 1996, Germany informed the Commission that Bestwood would receive DM 18 million in order to keep the enterprise in business until the Commission arrived at a final decision. The notification of that aid was to follow.

In addition, Germany informed the Commission that Bestwood had filed for bankruptcy on 4 December 1995. Meanwhile, a purchaser had been found to whom Bestwood could be sold in the context of a second privatization. The German authorities also submitted a privatization concept elaborated by the purchaser. In order to transfer Bestwood to that purchaser free of debt, however, it would be necessary for the Land Mecklenburg-Vorpommern to pay another DM 26 million to banks and smaller creditors which had their credits secured by land, buildings and equipment owned by Bestwood. Finally, the new purchaser was promised aid in the form of direct grants and guarantees which far exceeded the allowed aid ceiling for the new Länder of 35 %. The proposed aid consisted of a DM 30 million liquidity support for the purchaser, the maximum investment grant possible under the 'Gemeinschaftsaufgabe' (35 % investment grants) and a guarantee covering 80 % of the sum to be newly invested in Bestwood.

By letter dated 16 February 1996, Germany was informed that rescue aid for the period of the Article 93 (2) procedure could only be approved if all the requirements of the Community guidelines on State aid for rescuing and restructuring of firms in difficulties were fulfilled. In addition, Germany was requested to state whether the announced rescue aid was part of the DM 25 million guarantee for which the procedure had already been opened or whether that was new aid. Furthermore, information was requested regarding the system of bank-

ruptcy in the new Länder since it was the Commission's view that the claims of creditors would be met by the sale of the assets of the bankrupt enterprise and not by the State. Finally, the German authorities were informed that, even if the Commission arrived at the conclusion that the previous aid to Bestwood could be approved, new aid for the second privatization to the extent proposed could hardly be approved.

By letter dated 20 March 1996, Germany informed the Commission that the proposed DM 18 million rescue aid was new and thus different from the DM 25 million guarantee for which the procedure had been opened.

For the DM 26 million payments to creditors of Bestwood which were necessary to leave the bankrupt enterprise's property free of charges, the German authorities argued that this aid was necessary in the framework of the second privatization in which a purchaser could be found by a tender in which three companies had submitted bids. The purchaser finally retained, however, was only willing to pay the symbolic sum of DM 1 and this only if the enterprise's assets were free from debts.

In the same letter, Germany informed the Commission that the local Court of Stralsund had decided to open bankruptcy proceedings on 1 March 1996. Up to that date, no additional aid had been paid to Bestwood. The proposed DM 18 million rescue aid, however, would be necessary to allow the bankrupt company's administrator to keep the company in business until the takeover took place. No payment had been made in respect of the DM 25 million risk exemption in relation to NordLB. The NordLB, however, had granted guarantees and loans amounting to approximately DM 25 million in favour of Bestwood and it could be expected that claims might be made against the Land if the NordLB could not recover this amount by the sale of Bestwood assets.

By letter dated 4 July 1996, Germany informed the Commission that, following notification by the administrator that the company's liquidity was exhausted, on 11 June 1996, the assembly of Bestwood's creditors had approved the shut-down of Bestwood's activities on 12 June 1996. Bestwood would accordingly disappear from the market. The administrator had accordingly begun to dismiss Bestwood's employees. That process would be completed by 30 July 1996 whereupon Bestwood would cease to exist. The German authorities confirmed that the additional aid, of which notice was given in their letter of 1 February 1996, with further details in their letter dated 20 March 1996, was based on a restructuring concept which had since been rejected by the regional authorities.

⁽¹⁾ OJ No C 144, 16. 5. 1996, p. 6.

The notification of this aid should therefore be disregarded by the Commission. No such aid was ever granted. Furthermore, the German authorities confirmed that the bankruptcy proceedings had been completed according to the German bankruptcy rules without any intervention of the State, in particular without any additional aid. Any takeover would take place by the sale of Bestwood's assets. Any purchaser would have full freedom of manoeuvre. In any case, there would no longer be any link between Bestwood and a new enterprise. Any aid granted in the context of the purchase of the assets would therefore have to be examined by the Commission independently.

III

By letter dated 30 July 1996, the Commission transmitted to the German authorities comments by third parties, one Italian and one Swedish association of plywood producers as well as a Danish competitor, which it had received on the occasion of the publication of the notice concerning the opening of a proceeding on the matter.

All the third parties expressed their concern about the impact on capacities if Bestwood was restructured with financial support by the State. They argued that Bestwood could certainly not restore its viability without a significant increase of capacities and output which would seriously affect competition in a market with existing overcapacities and which would damage those competitors which do not receive financial support by the State. The Danish competitor also expressed doubts whether Bestwood, even after restructuring, could survive on the market. It pointed out that wood supplies in Mecklenburg-Vorpommern would not be sufficient to supply Bestwood with enough wood and that Bestwood would therefore have to purchase wood in other German Länder, in Poland and the Baltic States. Bestwood would therefore be confronted with transport costs exceeding the corresponding costs of its competitors located in areas with sufficient supplies of wood. In addition, since there were no furniture production plants in Mecklenburg-Vorpommern, Bestwood had no market in its area. It therefore had to sell its products in other parts of Germany, Denmark and Sweden which again would increase its transport costs.

IV

By letter dated 20 August 1996, the German authorities transmitted their response to the comments of the third parties.

The German authorities confirmed that Bestwood had shut down its activities on 12 July 1996 and thus had disappeared from the market. Bestwood had not received

any additional aid beyond the aid for which the Commission had opened the Article 93 (2) proceeding. No aid had been granted in the context of a second privatization, contrary to what was originally envisaged when the proceeding was opened.

V

The Article 93 (2) proceeding has confirmed the Commission's view that the financial measures taken by the Land Mecklenburg-Vorpommern until the opening of the procedure must be deemed to be aid within the meaning of Article 92 (1) of the EC Treaty and that they do not comply with the conditions for exemption set out in Article 92 (3) or with the Guidelines for control of State aid for rescuing and restructuring of firms in difficulties, the only framework under which the aid might have been approved.

The DM 5 million long-term loan constitutes aid within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement. Even though the interest rate for this loan was increased retroactively to the reference rate of 6,62 % and might therefore correspond to the normal conditions of the private sector in order to obtain credit loans, in the light of the exceptional financial difficulties Bestwood was facing, no private bank would have granted such a loan without further securities, as the Land Mecklenburg-Vorpommern did.

The aid granted to Bestwood was likely to distort competition and affect trade between Member States. There is extensive trade in particleboard and fibreboard products between Germany and the other Member States. In 1995, Germany exported 622 083 tonnes of particleboard products to other Member States with a value of ECU 264,5 million and 167 647 tonnes of fibreboard products with a value of ECU 92,3 million; it imported 757 214 tonnes of particleboard products with a value of ECU 280 million and 158 343 tonnes of fibreboard products with a value of ECU 88,2 million. Germany's market share in overall Community trade is some 25 % in the particleboard sector and some 3 % in the fibreboard sector. Bestwood was, with its 500 workers, one of the major producers of particleboard and fibreboard products since, within the Community, the average complement in that industry is 40 workers per enterprise. Bestwood was strongly involved in intra-Community trade, since some 35 % of its production was exported, in particular to Denmark and Sweden. Thus, any aid would serve to improve Bestwood's position in the common market compared with competitors not receiving State support.

Since the measures represented aid within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement, they were notifiable under Article 93 (3) of the EC Treaty. There was no exemption from that obligation on the basis of the approved consolidation programme of the Land Mecklenburg-Vorpommern since Bestwood with its 500 employees, at the moment of grant of the aid, far exceeded the SME ceiling. Since Germany did not comply with that requirement, the aid was granted unlawfully.

Nor may the aid be regarded as lawful in substance since none of the derogations under Article 92 of the Treaty may be applied.

The exceptions set out in Article 92 (2) of the EC Treaty do not apply in this case since the purpose of the aid does not correspond to any of the purposes referred to therein.

Bestwood was certainly located in an area where there is serious underemployment and where the standard of living is abnormally low. Aid to promote the economic development of those areas may, according to Article 92 (3) (a) of the EC Treaty be considered to be compatible with the common market. In this case, however, the aid certainly did not contribute to the promotion of the economic development of the region since the aid served to keep in business a loss-making firm rather than for investment and job creating.

Nor does the aid comply with the relevant horizontal Community guidelines on State aid to enterprises.

In particular, the Community Guidelines on State aid for rescuing and restructuring firms in difficulty do not apply. Bestwood, certainly, was a firm in difficulty unable to recover through its own resources. According to the Guidelines, rescue aid may consist of liquidity help in the form of loan guarantees or loans bearing normal commercial interest rates. The DM 5 million loan whose interest rate was retroactively increased to the reference interest rate of 6,62 %, which was valid for Germany at the time of the grant of the aid, thus meets this criterion of the guidelines. The German authorities, however, did not produce any evidence of a link between that loan and actual restructuring measures which, according to the guidelines, is required for rescue aid to be granted. Thus, during the procedure it became clear that the aid was intended only to maintain the status quo and postpone the inevitable, while at the same time it transferred the attendant industrial and social problems to other, more

efficient procurers and other Member States rather than supporting a restructuring process which should have been initiated when the rescue aid was granted.

Furthermore, the aid was likely to unduly distort competition. There are overcapacities in the particleboard and fibreboard industry and there was a large gap between production capacity and demand in the past which will continue to grow in the future since, until 1997, the annual growth rate for production is estimated at 2,2 %, whereas consumption is only expected to grow by 1,8 % annually. The pressure on competition in that sector cannot be balanced through growing exports. Exports from the Community were steady in the past and are expected to be steady in the future. Apart from overcapacities in the Community, competitive pressures may increase due to growing imports from eastern European countries which benefit from their trade agreements with the Community. Accordingly, the loan to Bestwood could seriously harm its competitors.

The DM 25 million risk exemption in relation to the NordLB loan which is in fact a guarantee and of which the final beneficiary was Bestwood, constitutes aid within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement.

The aid element in such a guarantee is generally equal to the difference between the rate of interest on a loan raised on normal market terms and the actual rate secured by virtue of the guarantee disregarding any premiums. The Commission has consistently taken the view that, whenever, owing to the undertaking's severe financial circumstances, no credit institution would agree to lend to it without a State guarantee, the entire amount of the loan is to be regarded as aid (cf. Decision 94/696/EC⁽¹⁾).

Since the risk exemption was the precondition for NordLB's financial engagement in Bestwood (they actually took over liabilities for an amount of DM 25 million), it contains a clear aid element which, because of the very high risk of this guarantee, corresponds in full to NordLB's financial engagement.

The risk exemption, for the same reasons as the DM 5 million loan, is liable to distort competition and trade between Member States.

⁽¹⁾ OJ No L 273, 25. 10. 1994, p. 22.

Since the risk exemption was not based on an approved aid scheme, it was notifiable individually according to Article 93 (3) of the EC-Treaty. Germany did not comply with that obligation. The aid was therefore formally illegal.

That guarantee could, however, have been approved by the Commission if it had served to avert Bestwood's insolvency during the proceeding under Article 93 (2). There are precedents in which the Commission approved such rescue aid, such as the Nino Textile case, where there was a danger that the enterprise concerned by the Article 93 (2) proceeding would not survive economically and would consequently have to file for bankruptcy before the final decision on the aid if it was not supported by the State.

A prerequisite for such an approval by the Commission, however, would have been that the risk exemption complied with the Community guidelines on State aid for rescuing and restructuring firms in difficulty. In particular, the risk exemption should have been:

- given in the form of a guarantee or a loan bearing normal interest rates,
- restricted to the amount absolutely necessary to keep Bestwood in business (for example, covering wage and salary costs and routine supplies), and
- paid only for the time needed (generally not exceeding six months) to devise the necessary and feasible recovery plan.

In addition, such rescue aid should not have been granted in a single payment but in several instalments spread over the six-month period. The Commission should have been kept informed about the payments in order to ensure that they were not used for payments other than running costs.

During the proceeding, the German Government was unable to demonstrate that the risk exemption it had given fulfilled all those requirements. As a result, the risk exemption cannot be approved since it does not fulfil the criteria set out above.

The writing-off of debts of approximately DM 100 million envisaged by the Land Mecklenburg-Vorpommern in the event of a second privatization, which would have released a potential purchaser from the corresponding obligations, would also have constituted aid within the meaning of Article 92 (1) of the EC Treaty.

During the proceeding, however, it became clear that the German authorities departed from their original plan to keep Bestwood in business until a purchaser had been found and a second privatization of Bestwood had taken place. Bestwood has, following the conclusion of the bankruptcy proceedings, disappeared from the market.

The company is being wound up in compliance with the German bankruptcy rules and all employees are being dismissed. An eventual purchaser of Bestwood's assets will enjoy freedom of manoeuvre concerning the hiring of employees and the continuation of production. In the context of the bankruptcy proceeding, no aid was awarded in addition to the DM 5 million loan and the DM 25 million risk exemption for which the Commission had opened the proceeding.

Taking all those facts into account, the Commission concludes that both the loan from the Land Mecklenburg-Vorpommern amounting to DM 5 million and the risk exemption amounting to DM 25 million are to be regarded as aid for which none of the derogations of Article 92 (3) of the EC Treaty applies.

VI

In cases where aid is deemed incompatible with the common market, the Commission requires the Member State to recover the aid from the recipient⁽¹⁾. Since the aid to Bestwood is not compatible with the common market, it must be recovered. This assessment is not changed by the fact that Bestwood filed for bankruptcy and disappeared from the market. The aid could be collected in so far as Bestwood's assets are sold and the creditors satisfied from the profits of that sale.

The recovery of the aid is to be made in accordance with German law, including the provisions concerning interest due for late payment of amounts owing to the State, with interest running from the date of the award of the aid⁽²⁾.

According to the case-law of the Court of Justice, when aid is recovered, the relevant provisions are to be applied in such a way that the recovery required by Community law is not rendered practically impossible. Any procedural difficulties or other difficulties in regard to the implementation of the measure cannot have any influence on its lawfulness⁽³⁾.

HAS ADOPTED THIS DECISION:

Article 1

The State aid in the form of a long-term loan of DM 5 million and the 'risk exemption' (guarantee) amounting to

⁽¹⁾ Commission communication of 24 November 1983 in OJ No C 318, 24. 11. 1983, p. 3. See also judgements of the Court of Justice in Case 70/72 *Commission v. Germany* [1973] ECR 813 and Case 310/85 *Deufil v. Commission* [1987] ECR 901.

⁽²⁾ Letter from the Commission to the Member States SG(91) D/4577 of 4 March 1991; see also note 7.

⁽³⁾ Case C-142/87 *Belgium v. Commission* [1990] ECR I-959 (paragraphs 58-63).

DM 25 million for Bestwood E.F. Kynder GmbH is unlawful since it was granted by the Land Mecklenburg-Vorpommern without Germany complying with its obligation to inform the Commission under Article 93 (3) of the EC Treaty before it was granted.

The aid is incompatible with the common market within the meaning of Article 92 (1) of the EC Treaty.

Article 2

Germany shall ensure that the aid to Bestwood E.F. Kynder GmbH referred to in Article 1 is recovered within two months of the date of notification of the decision.

The recovery of the aid shall be made in accordance with the procedures and provisions of German law, in particular those concerning recovery of amounts owed to the State, and include interest from the date of grant of the aid on the basis of the reference rate applying on that date for the calculation of the net grant equivalent of regional aid in the Federal Republic of Germany.

These provisions are to be applied in such a way that the recovery required by Community law is not rendered

practically impossible. Any procedural or other difficulties in regard to the implementation of the measure shall not have any influence on its effectiveness.

Article 3

Germany shall inform the Commission within two months from the notification of this Decision of the measures taken to comply with it.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 4 December 1996.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/451/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 5 August 1996, which was received by the Commission on 14 August 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns two types of gas discharge lamp for two types of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in these new types of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas these new types of gas discharge lamp and these two new types of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the types of gas discharge lamp, the two types of headlamp fitted with these types of lamp and the type of motor vehicle, to benefit from the

granting of EC type-approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning two types of gas discharge lamp for two types of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/452/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 5 August 1996, which was received by the Commission on 14 August 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns one type of gas discharge lamp for one type of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in this new type of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas this new type of gas discharge lamp and this new type of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the type of gas discharge lamp, the type of headlamp fitted with this type of lamp and the type of motor vehicle, to benefit from the granting of EC type-

approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning one type of gas discharge lamp for one type of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/453/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 5 August 1996, which was received by the Commission on 14 August 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns two types of gas discharge lamp for two types of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in these new types of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas these new types of gas discharge lamp and these new types of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the types of gas discharge lamp, the two types of headlamp fitted with these types of lamp and the type of motor vehicle, to benefit from the granting of EC

type-approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning two types of gas discharge lamp for two types of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/454/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 5 August 1996, which was received by the Commission on 14 August 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns two types of gas discharge lamp for two types of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in these new types of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas these new types of gas discharge lamp and these new types of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the types of gas discharge lamp, the types of headlamp fitted with these types of lamp and the type of motor vehicle, to benefit from the granting of EC type-

approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning two types of gas discharge lamp for two types of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

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COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/455/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 5 August 1996, which was received by the Commission on 14 August 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns two types of gas discharge lamp for two types of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in these new types of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas these new types of gas discharge lamp and these new types of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the types of gas discharge lamp, the types of headlamp fitted with these types of lamp and the type of motor vehicle, to benefit from the granting of EC type-

approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning two types of gas discharge lamp for two types of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/456/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 28 August 1996, which was received by the Commission on 11 September 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns one type of gas discharge lamp for one type of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in this new type of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas this new type of gas discharge lamp and this new type of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the type of gas discharge lamp, the type of headlamp fitted with this type of lamp and the type of motor vehicle, to benefit from the granting of EC type-

approval on condition that the type of vehicle concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning one type of gas discharge lamp for one type of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

COMMISSION DECISION

of 1 July 1997

concerning a request for exemption submitted by Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(97/457/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by European Parliament and Council Directive 96/79/EC⁽²⁾, and in particular Article 8 (2) (c) thereof,

Whereas the request submitted by Germany on 14 November 1996, which was received by the Commission on 22 November 1996, was accompanied by a report containing the information required by Article 8 (2) (c); whereas the request concerns two types of gas discharge lamp for two types of headlamp for one type of motor vehicle;

Whereas the information provided by Germany shows that the technology and principle embodied in these new types of gas discharge lamp and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam and to incandescent electric filament lamps for such headlamps⁽³⁾, as last amended by Commission Directive 89/517/EEC⁽⁴⁾;

Whereas these new types of gas discharge lamp and these new types of headlamp meet the requirements of UNECE (United Nations Economic Commission for Europe) Regulations Nos 98 and 99; whereas it is therefore justified to allow the three items covered by the request for exemption, i.e. the types of gas discharge lamp, the types of headlamp fitted with these types of lamp and the type of motor vehicle, to benefit from the granting of EC type-approval on condition that the type of vehicle concerned

is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit;

Whereas the Community Directives concerned will be amended in order to enable gas discharge lamps embodying this new technology, headlamps fitted with such lamps and motor vehicles equipped with such headlamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

The request submitted by Germany for an exemption concerning two types of gas discharge lamp for two types of headlamp for one type of motor vehicle is hereby approved on condition that the vehicle type concerned is equipped with an automatic headlamp levelling system, a headlamp cleaning device and a system guaranteeing that dipped-beam headlamps are lit even if the main-beam headlamps are lit.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 18, 21. 1. 1997, p. 7.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 15.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1376/97 of 17 July 1997 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1997 to 30 June 1998)

(Official Journal of the European Communities No L 189 of 18 July 1997)

The publication of Commission Regulation (EC) No 1376/97 should be completed with the following statement:

'COMMISSION STATEMENT ON REGULATION (EC) No 1376/97

If the Council adopts the Commission's proposal for a regulation providing for a reduction in the rate applicable to imports under the WTO tariff quota for certain live bovine animals, the Commission undertakes to adjust the detailed rules for applying that measure in order to close the import dossiers pending since 1 July 1996 and settle them definitively at a specific amount reduced to ECU 399 per tonne under the tariff quota of 169 000 head of live bovine animals.'
