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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 346/1999
of 17 February 1999
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 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

ANNEX

to the Commission Regulation of 17 February 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	141,6
	204	43,0
	212	117,1
	624	198,1
	999	125,0
0707 00 05	068	119,0
	999	119,0
0709 10 00	220	132,9
	999	132,9
0709 90 70	052	128,1
	204	127,5
	999	127,8
0805 10 10, 0805 10 30, 0805 10 50	052	73,5
	204	36,7
	212	42,6
	220	27,2
	600	48,7
	624	55,3
	999	47,3
0805 20 10	204	71,6
	999	71,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	51,1
	204	71,0
	464	61,8
	600	90,6
	624	68,3
	999	68,6
0805 30 10	052	47,0
	600	71,6
	999	59,3
0808 10 20, 0808 10 50, 0808 10 90	039	76,4
	060	38,6
	400	72,3
	404	62,4
	528	145,2
	706	107,2
	720	81,7
	728	66,6
	999	81,3
	052	132,7
0808 20 50	388	89,8
	400	82,1
	512	64,7
	528	82,0
	624	56,3
	999	84,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 347/1999**of 17 February 1999****fixing the maximum export refund for white sugar for the 27th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1574/98**

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 Commission Regulation (EC) No 1148/98⁽²⁾, and in particular the second subparagraph of Article 17 (5)(b) thereof,

Whereas Commission Regulation (EC) No 1574/98 of 22 July 1998 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1574/98 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 27th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 27th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1574/98 the maximum amount of the export refund is fixed at EUR 50,230 per 100 kilograms.

Article 2

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 206, 23. 7. 1998, p. 7.

COMMISSION REGULATION (EC) No 348/1999

of 17 February 1999

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1148/98⁽²⁾,

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

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

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

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

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market;

whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 18 February 1999.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 17 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

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

CN code	Amount of the representative price in EUR per 100 kg net of the product in question	Amount of the additional duty in EUR per 100 kg net of the product in question	Amount of the duty to be applied to imports in EUR per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	6,21	0,27	—
1703 90 00 ⁽¹⁾	7,43	0,00	—

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

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

COMMISSION REGULATION (EC) No 349/1999

of 17 February 1999

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 1 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽³⁾, as amended by Regulation (EC) No 3290/94⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application

for the grant of export refunds in the sugar sector⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 18 February 1999.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ 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, 17 February 1999.

For the Commission
 Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 17 February 1999 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— EUR/100 kg —
1701 11 90 9100	43,13 ⁽¹⁾
1701 11 90 9910	43,43 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	43,13 ⁽¹⁾
1701 12 90 9910	43,43 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4689
	— EUR/100 kg —
1701 99 10 9100	46,89
1701 99 10 9910	47,21
1701 99 10 9950	47,21
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4689

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

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

COMMISSION REGULATION (EC) No 350/1999**of 17 February 1999****amending Regulation (EEC) No 2750/86 laying down detailed rules for the application of measures for the marketing of sugar produced in the French overseas departments**

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 organisation of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1148/98 ⁽²⁾, and in particular Article 9(6) and the second paragraph of Article 39 thereof,

Whereas Council Regulation (EEC) No 2225/86 of 15 July 1986 laying down measures for the marketing of sugar produced in the French overseas departments and for the equalisation of the price conditions with preferential raw sugar ⁽³⁾ provides in particular for the grant of a flat-rate Community aid for marketing to producers of sugars produced in the French overseas departments (hereinafter called the 'overseas departments') and delivered to European ports in the Community; whereas this aid comprises two flat-rate amounts, one representing the transport costs from the ex-factory stage to the fob port in overseas department stage and the other representing the sea transport costs from the fob port in overseas department stage to the cif European ports in the Community stage equal to the Caribbean-to-United Kingdom freight element;

Whereas the sea transport costs depend principally on the size of the vessels, which in turn is determined by the depth of water in the ports of loading in the overseas departments; whereas experience has shown that precisely on account of the specific features of ports, sugar is frequently transported from certain overseas departments to the Community in vessels with a net registered tonnage of less than 20 000 tonnes; whereas the Caribbean-United Kingdom freight element is established on the basis of vessels with a net registered tonnage of between 25 000 tonnes and 30 000 tonnes; whereas the freight costs borne by operators may be disproportionate therefore in relation to the freight element established on a flat-rate basis; whereas, in order to attain the objectives of Article 9 of Regulation (EEC) No 1785/81, the detailed rules for applying the flat rate should include the possibility of adjusting the Caribbean-United Kingdom freight element, where the sizes of the vessels used justify it; whereas, consequently, Article 2 of Commission Regulation (EEC) No 2750/86 of 3 September 1986 laying down detailed rules for the application of measures for the marketing of sugar produced in the French overseas

departments and amending for the fourth time Regulation (EEC) No 3016/78 ⁽⁴⁾, as last amended by Regulation (EEC) No 1730/92 ⁽⁵⁾, should be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EEC) No 2750/86 is amended as follows:

1. the existing text becomes paragraph 1;
2. the following paragraph 2 is added:

'2. The competent French authorities may adjust on a flat-rate basis the amount referred to in the last subparagraph of paragraph 1, where, as a result of the use of vessels with a net registered tonnage of less than 20 000 tonnes, the actual transport costs borne by the producer exceed that amount.

The adjustment shall be equivalent, for each month and each geographical area (Antilles/Réunion), to an amount not exceeding the average difference established for bulk transport during the 12 months preceding the month of departure of the sugar from the ports in the overseas departments, less a flat-rate amount of EUR 2/tonne, between the actual freight costs for vessels with a net registered tonnage of less than 20 000 tonnes, established on the basis of bills of lading, and the Caribbean-to-United Kingdom freight element referred to in Article 2(b) of Regulation (EEC) No 2225/86.

The competent French authorities shall notify the Commission forthwith of the adjustments made, specifying in particular the number of vessels and the amounts concerned, and shall forward the relevant supporting documents.'

Article 2

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

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 194, 17. 7. 1986, p. 7.

⁽⁴⁾ OJ L 253, 5. 9. 1986, p. 8.

⁽⁵⁾ OJ L 179, 1. 7. 1992, p. 112.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 351/1999**of 17 February 1999****amending Regulation (EEC) No 1318/93 on detailed rules for the application of
Council Regulation (EEC) No 2067/92 on measures to promote and market
quality beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas Commission Regulation (EEC) No 1318/93 ⁽²⁾, as last amended by Regulation (EC) No 1849/97 ⁽³⁾, lays down the detailed rules for applying the above Regulation;

Whereas in order to allow the competent body to make a more thorough examination of the promotion programmes the time limit set in Article 5(1) of Regulation (EEC) No 1318/93 should be extended;

Whereas Article 5(2) of Regulation (EEC) No 1318/93 does not set a time limit within which the Commission is to determine the successful applications;

Whereas, in the light of experience and in order to guarantee continuity in the implementation of measures, such a time limit should be set;

Whereas Article 5(1) and (2) of Regulation (EEC) No 1318/93 should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1318/93 is hereby amended as follows:

1. in Article 5, paragraph 1 is replaced by the following:

‘1. The competent body shall draw up a list of all the applications for financing which it has received and send it to the Commission with a reasoned opinion on each of them before 30 April.’;

2. in Article 5(2), the first subparagraph is replaced by the following:

‘2. Following scrutiny by the Management Committee for Beef and Veal in accordance with Article 28 of Council Regulation (EEC) No 805/68 ^(*), the Commission shall determine the successful applications by 30 September at the latest.

^(*) OJ L 148, 28.6.1968, p. 24.’

Article 2

This Regulation shall enter into force on 1 March 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 215, 30. 7. 1992, p. 57.

⁽²⁾ OJ L 132, 29. 5. 1993, p. 83.

⁽³⁾ OJ L 264, 26. 9. 1997, p. 11.

COMMISSION REGULATION (EC) No 352/1999**of 17 February 1999****fixing the maximum export refunds for olive oil for the sixth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2269/98**

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 2269/98⁽³⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EC) No 2269/98 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the abovementioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the sixth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2269/98 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 February 1999.

Article 2

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

⁽³⁾ OJ L 284, 22. 10. 1998, p. 25.

ANNEX

to the Commission Regulation of 17 February 1999 fixing the maximum export refunds for olive oil for the sixth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2269/98

(EUR/100 kg)

Product code	Amount of refund
1509 10 90 9100	—
1509 10 90 9900	—
1509 90 00 9100	—
1509 90 00 9900	—
1510 00 90 9100	—
1510 00 90 9900	—

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 353/1999
of 17 February 1999
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72⁽³⁾, as last amended by Regulation (EEC) No 2962/77⁽⁴⁾;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world

market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 February 1999.

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

⁽³⁾ OJ L 78, 31. 3. 1972, p. 1.

⁽⁴⁾ OJ L 348, 30. 12. 1977, p. 53.

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

Done at Brussels, 17 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 17 February 1999 fixing the export refunds on olive oil
(EUR/100 kg)

Product code	Amount of refund (¹)
1509 10 90 9100	0,00
1509 10 90 9900	0,00
1509 90 00 9100	0,00
1509 90 00 9900	0,00
1510 00 90 9100	0,00
1510 00 90 9900	0,00

(¹) For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 354/1999
of 17 February 1999
concerning applications for export licences for rice and broken rice with advance
fixing of the refund

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾, as last amended by Regulation (EC) No 444/98 ⁽⁴⁾, and in particular the second subparagraph of Article 7(4) thereof,

Whereas Article 7(4) of Regulation (EC) No 1162/95 provides, where this paragraph is specifically referred to when an export refund is fixed, for an interval of three working days between the day of submission of applications and the granting of export licences with advance fixing of the refund and provides that the Commission is to fix a uniform percentage reduction in the quantities if applications for export licences exceed the quantities which may be exported; whereas Commission Regulation (EC) No 333/1999 ⁽⁵⁾ fixes refunds under the procedure provided for in the abovementioned paragraph;

Whereas the quantities applied for on 15 February 1999 are in excess of the available quantity of 2 000 tonnes; whereas a percentage reduction should therefore be fixed

for export licence applications submitted on 15 February 1999;

Whereas, in view of its purpose, this Regulation should take effect from the day of its publication in the *Official Journal of the European Communities*,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences for rice and broken rice with advance fixing of the refund submitted under Regulation (EC) No 333/1999 on 15 February 1999 shall give rise to the issue of licences for the quantities applied for to which a percentage reduction of 48,52 % for rice for destinations 02, 03 and 05 in the Annex to Regulation (EC) No 333/1999 has been applied.

Article 2

Applications for export licences for rice and broken rice submitted from 16 February 1999 shall not give rise to the issue of export licences pursuant to Regulation (EC) No 333/1999.

Article 3

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 117, 24. 5. 1995, p. 2.

⁽⁴⁾ OJ L 56, 26. 2. 1998, p. 12.

⁽⁵⁾ OJ L 40, 13. 2. 1999, p. 30.

COMMISSION REGULATION (EC) No 355/1999
of 17 February 1999
determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 ⁽²⁾ laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as last amended by Regulation (EC) No 1419/98 ⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1 (2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton ⁽⁴⁾, as last amended by Regulation (EC) No 1664/98 ⁽⁵⁾; whereas if it cannot be determined in this way it is to be based on the last price determined;

Whereas Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend; whereas to this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for ginned cotton provide for adjustments to reflect differences in product quality and the nature of offers and quotations;

whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Whereas application of the above rules gives the world market price for unginned cotton indicated hereunder;

Whereas the second subparagraph of Article 5(3a) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is overrun but with a minimum 7,5 % increase in the revised estimate for unginned cotton production; whereas Commission Regulation (EC) No 2591/98 ⁽⁶⁾ fixes the revised estimate of production of unginned cotton for the 1998/99 marketing year and the relevant percentage increase; whereas application of these rules gives the advance payment rates for each Member State indicated hereunder,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at EUR 25,362 per 100 kilograms.

2. Advance payment of the aid as indicated in Article 5 (3a), second sentence, of Regulation (EC) No 1554/95 shall be at the rate of:

- EUR 58,828 per 100 kilograms in Spain,
- EUR 48,623 per 100 kilograms in Greece,
- EUR 80,938 per 100 kilograms in other Member States.

Article 2

This Regulation shall enter into force on 18 February 1999.

⁽¹⁾ OJ L 148, 30. 6. 1995, p. 45.

⁽²⁾ OJ L 148, 30. 6. 1995, p. 48.

⁽³⁾ OJ L 190, 4. 7. 1998, p. 4.

⁽⁴⁾ OJ L 123, 4. 5. 1989, p. 23.

⁽⁵⁾ OJ L 211, 29. 7. 1998, p. 9.

⁽⁶⁾ OJ L 324, 2. 12. 1998, p. 25.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 356/1999
of 17 February 1999
fixing the import duties in the rice sector

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽³⁾, as last amended by Regulation (EC) No 2831/98 ⁽⁴⁾, and in particular Article 4(1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

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

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 189, 30. 7. 1996, p. 71.

⁽⁴⁾ OJ L 351, 29. 12. 1998, p. 25.

ANNEX I

Import duties on rice and broken rice

(EUR/tonne)

CN code	Duties ⁽¹⁾				
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽⁷⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	83,41	121,01		188,03
1006 10 23	(7)	83,41	121,01		188,03
1006 10 25	(7)	83,41	121,01		188,03
1006 10 27	(7)	83,41	121,01		188,03
1006 10 92	(7)	83,41	121,01		188,03
1006 10 94	(7)	83,41	121,01		188,03
1006 10 96	(7)	83,41	121,01		188,03
1006 10 98	(7)	83,41	121,01		188,03
1006 20 11	222,56	73,56	106,94		166,92
1006 20 13	222,56	73,56	106,94		166,92
1006 20 15	222,56	73,56	106,94		166,92
1006 20 17	218,50	72,14	104,91	0,00	163,88
1006 20 92	222,56	73,56	106,94		166,92
1006 20 94	222,56	73,56	106,94		166,92
1006 20 96	222,56	73,56	106,94		166,92
1006 20 98	218,50	72,14	104,91	0,00	163,88
1006 30 21	427,38	137,19	198,78		320,54
1006 30 23	427,38	137,19	198,78		320,54
1006 30 25	427,38	137,19	198,78		320,54
1006 30 27	(7)	160,51	232,09		370,50
1006 30 42	427,38	137,19	198,78		320,54
1006 30 44	427,38	137,19	198,78		320,54
1006 30 46	427,38	137,19	198,78		320,54
1006 30 48	(7)	160,51	232,09		370,50
1006 30 61	427,38	137,19	198,78		320,54
1006 30 63	427,38	137,19	198,78		320,54
1006 30 65	427,38	137,19	198,78		320,54
1006 30 67	(7)	160,51	232,09		370,50
1006 30 92	427,38	137,19	198,78		320,54
1006 30 94	427,38	137,19	198,78		320,54
1006 30 96	427,38	137,19	198,78		320,54
1006 30 98	(7)	160,51	232,09		370,50
1006 40 00	(7)	49,58	(7)		114,00

⁽¹⁾ The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

⁽²⁾ In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR 250 per tonne applies (Article 4a of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	(¹)	218,50	494,00	222,56	427,38	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	350,12	314,62	371,33	416,07	—
(b) fob price (EUR/tonne)	—	—	—	344,49	389,23	—
(c) Sea freight (EUR/tonne)	—	—	—	26,84	26,84	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 357/1999**of 17 February 1999****on the issue of system B export licences in the fruit and vegetables sector**

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

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1287/98 ⁽²⁾, and in particular Article 5(5) thereof,

Whereas Commission Regulation (EC) No 2776/98 ⁽³⁾, fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for lemons will shortly be exceeded; whereas this overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for lemons exported after 17 February 1999 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for lemons submitted pursuant to Article 1 of Regulation (EC) No 2776/98, export declarations for which are accepted after 17 February 1999 and before 17 March 1999, are hereby rejected.

Article 2

This Regulation shall enter into force on 18 February 1999.

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 178, 23. 6. 1998, p. 11.

⁽³⁾ OJ L 346, 22. 12. 1998, p. 44.

COMMISSION REGULATION (EC) No 358/1999

of 17 February 1999

on a sale by tender of beef held by certain intervention agencies for export to certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Article 7(3) thereof,

Whereas the application of intervention measures in respect of beef has resulted in a build-up of stocks in several Member States; whereas outlets for those products exist in certain third countries; whereas, in order to prevent storage being prolonged excessively, part of those stocks should be put up for sale by tender for export to those countries;

Whereas the sale should be conducted in accordance with Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, and in particular Titles II and III thereof, and Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention ⁽⁵⁾, as last amended by Regulation (EC) No 770/96 ⁽⁶⁾, subject to certain special exceptions on account of the particular use to which the products in question are to be put;

Whereas, in order to ensure that the sales by tender are conducted properly and uniformly, measures in addition to those provided for in Article 8(1) of Regulation (EEC) No 2173/79 should be adopted;

Whereas provision should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79 in view of the administrative difficulties which the application of that point is creating in the Member States concerned;

Whereas, for practical reasons, export refunds will not be granted on beef sold under this Regulation; whereas, however, successful tenderers will be required to apply for export licences for the quantity awarded, in accordance with Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector ⁽⁷⁾, as last amended by Regulation (EC) No 2648/98 ⁽⁸⁾;

Whereas, in order to ensure that the beef sold is exported to the eligible third countries, provision should be made for a security to be lodged before the goods are taken over and the primary requirements should be determined;

Whereas products from intervention stocks may in certain cases have undergone several handling operations; whereas, to help ensure satisfactory presentation and marketing, the repackaging of the products should be authorised in certain circumstances;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The following approximate quantities of intervention products bought in pursuant to Article 6 of Regulation (EEC) No 805/68 shall be put up for sale:

- 10 000 tonnes of bone-in beef held by the German intervention agency,
- 10 000 tonnes of bone-in beef held by the French intervention agency.

2. The beef shall be exported to the zone 08 destinations listed in Annex II to Commission Regulation (EC) No 2697/98 ⁽⁹⁾.

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 17.

⁽³⁾ OJ L 251, 5. 10. 1979, p. 12.

⁽⁴⁾ OJ L 248, 14. 10. 1995, p. 39.

⁽⁵⁾ OJ L 301, 17. 10. 1992, p. 17.

⁽⁶⁾ OJ L 104, 27. 4. 1996, p. 13.

⁽⁷⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽⁸⁾ OJ L 335, 10. 12. 1998, p. 39.

⁽⁹⁾ OJ L 338, 15. 12. 1998, p. 20.

3. Subject to the provisions of this Regulation, the sale shall be conducted in accordance with Regulation (EEC) No 2173/79, and in particular Titles II and III thereof, and Regulation (EEC) No 3002/92.

Article 2

1. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up notices of invitation to tender, setting out in particular:

- the quantities of beef put up for sale, and
- the deadline and place for the submission of tenders.

2. Particulars of the quantities and the places where the products are stored may be obtained by the parties concerned at the addresses set out in the Annex II. The intervention agencies shall, in addition, display the notices referred to in paragraph 1 at their head offices and may also publish them in other ways.

3. The intervention agencies concerned shall sell first meat which has been in storage for the longest time.

4. Only tenders reaching the intervention agencies concerned by 12 noon on 23 February 1999 shall be considered.

5. Tenders shall be valid only if they relate to a minimum of 15 tonnes.

6. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, tenders must be submitted to the intervention agency concerned in sealed envelopes bearing a reference to this Regulation. The sealed envelopes must not be opened by the intervention agency before the deadline for submission as referred to in paragraph 4 has expired.

7. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not specify the store or stores where the products are held.

8. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

The submission of an application for an export licence as referred to in Article 4(2) shall constitute a primary requirement in addition to the requirements laid down in Article 15(3) of Regulation (EEC) No 2173/79.

Article 3

1. Not later than the day following the closing date for the submission of tenders, the Member States shall send the Commission details of tenders received.

2. Following scrutiny of the tenders, a minimum selling price for each product shall be set or no award shall be made.

Article 4

1. The intervention agency shall send each tenderer the information referred to in Article 11 of Regulation (EEC) No 2173/79 by fax.

2. Within five working days of the date on which the information as referred to in paragraph 1 is forwarded, the successful tenderers shall apply for one or more export licences as referred to in the first indent of Article 8(2) of Regulation (EC) No 1445/95 in respect of the quantity awarded. Applications shall be accompanied by the fax as referred to in paragraph 1 and shall contain in box 7 the name of one of the zone 08 countries referred to in Article 1(2). In addition, one of the following shall be entered in box 20 of applications:

- Productos de intervención sin restitución [Reglamento (CE) n° 358/1999]
- Interventionsvarer uden restitution [Forordning (EF) nr. 358/1999]
- Interventionserzeugnisse ohne Erstattung [Verordnung (EG) Nr. 358/1999]
- Προϊόντα παρέμβασης χωρίς επιστροφή [κανονισμός (ΕΚ) αριθ. 358/1999]
- Intervention products without refund [Regulation (EC) No 358/1999]
- Produits d'intervention sans restitution [règlement (CE) n° 358/1999]
- Prodotti d'intervento senza restituzione [Regolamento (CE) n. 358/1999]
- Producten uit interventievoorraden zonder restitutie [Verordening (EG) nr. 358/1999]
- Produtos de intervenção sem restituição [Reglamento (CE) n.º 358/1999]
- Interventiotuotteita — ei vientitukea [Asetus (EY) N:o 358/1999]
- Interventionsprodukt utan exportbidrag [Förordning (EG) nr 358/1999].

Article 5

1. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79, the delivery period shall run for three months from the date of the notification as referred to in Article 4(1) of this Regulation.

2. Notwithstanding the first indent of Article 8(2) of Regulation (EC) No 1445/95, export licences applied for in accordance with Article 4(2) of this Regulation shall be valid for 90 days.

Article 6

1. A security shall be lodged by the buyer before the goods are taken over to ensure they are exported to the third countries referred to in Article 1(2). Import into one of those countries shall constitute a primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 ⁽¹⁾.

2. The security referred to in paragraph 1 above shall be, per tonne:

- the difference between the price tendered per tonne and EUR 2 000 in the case of bone-in hindquarters,
- the difference between the price tendered per tonne and EUR 1 300 in the case of bone-in forequarters.

Article 7

The competent authorities may permit intervention products with torn or soiled packaging to be put up in new packaging of the same type, under their supervision and before being presented for dispatch at the customs office of departure.

Article 8

No export refund shall be granted on meat sold under this Regulation.

Removal orders as referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, export declarations and, where appropriate, T5 control copies shall contain one of the following entries:

- Productos de intervención sin restitución [Reglamento (CE) n° 358/1999]
- Interventionsvarer uden restitution [Forordning (EF) nr. 358/1999]
- Interventionserzeugnisse ohne Erstattung [Verordnung (EG) Nr. 358/1999]
- Προϊόντα παρέμβασης χωρίς επιστροφή [κανονισμός (ΕΚ) αριθ. 358/1999]
- Intervention products without refund (Regulation (EC) No 358/1999)
- Produits d'intervention sans restitution [règlement (CE) n° 358/1999]
- Prodotti d'intervento senza restituzione [Regolamento (CE) n. 358/1999]
- Producten uit interventievoorraden zonder restitutie [Verordening (EG) nr. 358/1999]
- Produtos de intervenção sem restituição [Reglamento (CE) n.º 358/1999]
- Interventiotuotteita — ei vientitukea [Asetus (EY) N:o 358/1999]
- Interventionsprodukt utan exportbidrag [Förordning (EG) nr 358/1999].

Article 9

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

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

Done at Brussels, 17 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 205, 3. 8. 1985, p. 5.

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

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä (tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)

Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben

DEUTSCHLAND	— Vorderviertel	5 000
	— Hinterviertel	5 000
FRANCE	— Quartiers avant	5 000
	— Quartiers arrière	5 000

⁽¹⁾ Véase el anexo V del Reglamento (CEE) n° 2456/93 (DO L 225 de 4. 9. 1993, p. 4), cuya última modificación la constituye el Reglamento (CE) n° 2812/98 (DO L 349 de 24. 12. 1998, p. 47).

⁽¹⁾ Se bilag V til forordning (EØF) nr. 2456/93 (EFT L 225 af 4. 9. 1993, s. 4), senest ændret ved forordning (EF) nr. 2812/98 (EFT L 349 af 24. 12. 1998, s. 47).

⁽¹⁾ Vgl. Anhang V der Verordnung (EWG) Nr. 2456/93 (ABl. L 225 vom 4. 9. 1993, S. 4), zuletzt geändert durch die Verordnung (EG) Nr. 2812/98 (ABl. L 349 vom 24. 12. 1998, S. 47).

⁽¹⁾ Βλέπε παράρτημα V του κανονισμού (ΕΟΚ) αριθ. 2456/93 (ΕΕ L 225 της 4. 9. 1993, σ. 4), όπως τροποποιήθηκε τελευταία από τον κανονισμό (ΕΚ) αριθ. 2812/98 (ΕΕ L 349 της 24. 12. 1998, σ. 47).

⁽¹⁾ See Annex V to Regulation (EEC) No 2456/93 (OJ L 225, 4.9.1993, p. 4), as last amended by Regulation (EC) No 2812/98 (OJ L 349, 24.12.1998, p. 47).

⁽¹⁾ Voir annexe V du règlement (CEE) n° 2456/93 (JO L 225 du 4. 9. 1993, p. 4). Règlement modifié en dernier lieu par le règlement (CE) n° 2812/98 (JO L 349 du 24. 12. 1998, p. 47).

⁽¹⁾ Cfr. allegato V del regolamento (CEE) n. 2456/93 (GU L 225 del 4. 9. 1993, pag. 4), modificato da ultimo dal regolamento (CE) n. 2812/98 (GU L 349 del 24. 12. 1998, pag. 47).

⁽¹⁾ Zie bijlage V van Verordening (EEG) nr. 2456/93 (PB L 225 van 4. 9. 1993, blz. 4), laatstelijk gewijzigd bij Verordening (EG) nr. 2812/98 (PB L 349 van 24. 12. 1998, blz. 47).

⁽¹⁾ Ver anexo V do Regulamento (CEE) n.º 2456/93 (JO L 225 de 4. 9. 1993, p. 4). Regulamento com a última redacção que lhe foi dada pelo Regulamento (CE) n.º 2812/98 (JO L 349 de 24. 12. 1998, p. 47).

⁽¹⁾ Katso asetuksen (ETY) N:o 2456/93 (EYVL L 225, 4.9.1993, s. 4), sellaisena kuin se on viimeksi muutettuna asetuksella (EY) N:o 2812/98 (EYVL L 349, 24.12.1998, s. 47) liite V.

⁽¹⁾ Se bilaga V i förordning (EEG) nr 2456/93 (EGT L 225, 4.9.1993, s. 4), senast ändrad genom förordning (EG) nr 2812/98 (EGT L 349, 24.12.1998, s. 47).

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

**Direcciones de los organismos de intervención — Interventionsorganernes adresser —
Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses
of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli
organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos
de intervenção — Interventioelinten osoitteet — Interventionsorganens adresser**

BUNDESREPUBLIK DEUTSCHLAND

Bundesanstalt für Landwirtschaft und Ernährung (BLE)
Postfach 180203, D-60083 Frankfurt am Main
Adickesallee 40
D-60322 Frankfurt am Main
Tel.: (49) 69 1564-704/772; Telex: 411727; Telefax: (49) 69 15 64-790/791

FRANCE

Ofival
80, avenue des Terroirs-de-France
F-75607 Paris Cedex 12
Téléphone: (33 1) 44 68 50 00; télex: 215330; télécopieur: (33 1) 44 68 52 33

COMMISSION REGULATION (EC) No 359/1999**of 17 February 1999****on a sale by tender of beef held by certain intervention agencies for export and
repealing Regulations (EC) Nos 2145/98 and 2161/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Article 7(3) thereof,

Whereas the application of intervention measures in respect of beef has resulted in a build-up of stocks in several Member States; whereas outlets for those products exist in certain third countries; whereas, in order to prevent storage being prolonged excessively, part of those stocks should be put up for sale by tender for export to those countries;

Whereas the sale should be conducted in accordance with Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, and in particular Titles II and III thereof, and Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention ⁽⁵⁾, as last amended by Regulation (EC) No 770/96 ⁽⁶⁾, subject to certain special exceptions on account of the particular use to which the products in question are to be put;

Whereas, in order to ensure that the sales by tender are conducted properly and uniformly, measures in addition to those provided for in Article 8(1) of Regulation (EEC) No 2173/79 should be adopted;

Whereas provision should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79 in view of the administrative difficulties which the application of that point is creating in the Member States concerned;

Whereas, for practical reasons, export refunds will not be granted on beef sold under this Regulation; whereas, however, successful tenderers will be required to apply for export licences for the quantity awarded, in accordance with Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector ⁽⁷⁾, as last amended by Regulation (EC) No 2648/98 ⁽⁸⁾;

Whereas, in order to ensure that the beef sold is exported to the eligible third countries, provision should be made for a security to be lodged before the goods are taken over and the primary requirements should be determined;

Whereas products from intervention stocks may in certain cases have undergone several handling operations; whereas, to help ensure satisfactory presentation and marketing, the repackaging of the products should be authorised in certain circumstances;

Whereas Commission Regulations (EC) Nos 2145/98 ⁽⁹⁾ and 2161/98 ⁽¹⁰⁾ should be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The following approximate quantities of intervention products bought in pursuant to Article 6 of Regulation (EEC) No 805/68 shall be put up for sale:

- 5 000 tonnes of bone-in beef held by the German intervention agency,
- 5 000 tonnes of bone-in beef held by the French intervention agency,

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 17.

⁽³⁾ OJ L 251, 5. 10. 1979, p. 12.

⁽⁴⁾ OJ L 248, 14. 10. 1995, p. 39.

⁽⁵⁾ OJ L 301, 17. 10. 1992, p. 17.

⁽⁶⁾ OJ L 104, 27. 4. 1996, p. 13.

⁽⁷⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽⁸⁾ OJ L 335, 10. 12. 1998, p. 39.

⁽⁹⁾ OJ L 270, 7. 10. 1998, p. 39.

⁽¹⁰⁾ OJ L 271, 8. 10. 1998, p. 24.

- 5 000 tonnes of bone-in beef held by the Spanish intervention agency,
- 4 000 tonnes of boneless beef held by the Irish intervention agency.

2. The beef shall be exported to the zones '02' to '09' destinations listed in Annex II to Commission Regulation (EC) No 2697/98 ⁽¹⁾.

3. Subject to the provisions of this Regulation, the sale shall be conducted in accordance with Regulation (EEC) No 2173/79, and in particular Titles II and III thereof, and Regulation (EEC) No 3002/92.

Article 2

1. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up notices of invitation to tender setting out in particular:

- the quantities of beef put up for sale, and
- the deadline and place for the submission of tenders.

2. Particulars of the quantities and the places where the products are stored may be obtained by the parties concerned at the addresses set out in the Annex II. The intervention agencies shall, in addition, display the notices referred to in paragraph 1 at their head offices and may also publish them in other ways.

3. The intervention agencies concerned shall sell first meat which has been in storage for the longest time.

4. Only tenders reaching the intervention agencies concerned by 12 noon on 22 February 1999 shall be considered.

5. Tenders shall be valid only if they relate to a minimum of 15 tonnes.

6. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, tenders must be submitted to the intervention agency concerned in sealed envelopes bearing a reference to this Regulation. The sealed envelopes must not be opened by the intervention agency before the deadline for submission as referred to in paragraph 4 has expired.

7. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not specify the store or stores where the products are held.

8. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

The submission of an application for an export licence as referred to in Article 4(2) shall constitute a primary requirement in addition to the requirements laid down in Article 15(3) of Regulation (EEC) No 2173/79.

Article 3

1. Not later than the day following the closing date for the submission of tenders, the Member States shall send the Commission details of tenders received.

2. Following scrutiny of the tenders, a minimum selling price per product shall be set or no award shall be made.

Article 4

1. The intervention agency shall send each tenderer the information referred to in Article 11 of Regulation (EEC) No 2173/79 by fax.

2. Within five working days of the date on which the information as referred to in paragraph 1 is forwarded, the successful tenderers shall apply for one or more export licences as referred to in the first indent of Article 8(2) of Regulation (EC) No 1445/95 in respect of the quantity awarded. Applications shall be accompanied by the fax as referred to in paragraph 1 and shall contain in box 7 the name of one of the zones '02' to '09' countries referred to in Article 1(2). In addition, one of the following shall be entered in box 20 of applications:

- Productos de intervención sin restitución [Reglamento (CE) n° 359/1999]
- Interventionsvarer uden restitution [Forordning (EF) nr. 359/1999]
- Interventionserzeugnisse ohne Erstattung [Verordnung (EG) Nr. 359/1999]
- Προϊόντα παρέμβασης χωρίς επιστροφή [κανονισμός (ΕΚ) αριθ. 359/1999]
- Intervention products without refund [Regulation (EC) No 359/1999]
- Produits d'intervention sans restitution [règlement (CE) n° 359/1999]
- Prodotti d'intervento senza restituzione [Regolamento (CE) n. 359/1999]
- Producten uit interventievoorraden zonder restituties [Verordening (EG) nr. 359/1999]
- Produtos de intervenção sem restituição [Reglamento (CE) n.º 359/1999]
- Interventiotuotteita — ei vientitukea [Asetus (EY) N:o 359/1999]
- Interventionsprodukt utan exportbidrag [Förordning (EG) nr 359/1999].

⁽¹⁾ OJ L 338, 15. 12. 1998, p. 20.

Article 5

1. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79, the delivery period shall run for three months from the date of the notification as referred to in Article 4(1) of this Regulation.

2. Notwithstanding the first indent of Article 8(2) of Regulation (EC) No 1445/95, export licences applied for in accordance with Article 4(2) of this Regulation shall be valid for 90 days.

Article 6

1. A security shall be lodged by the buyer before the goods are taken over to ensure they are exported to the third countries referred to in Article 1(2). Import into one of those countries shall constitute a primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85⁽¹⁾.

2. The security referred to in paragraph 1 shall be, per tonne:

- the difference between the tender price per tonne and EUR 2 000 for bone-in hindquarters,
- the difference between the tender price per tonne and EUR 1 300 for bone-in forequarters,
- the difference between the tender price per tonne and EUR 3 200 for boneless meat falling within codes INT 12 to INT 16 and code INT 19,
- the difference between the tender price and EUR 1 800 for other boneless meat.

Article 7

The competent authorities may permit intervention products with torn or soiled packaging to be put up in new packaging of the same type, under their supervision and before being presented for dispatch at the customs office of departure.

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

Done at Brussels, 17 February 1999.

Article 8

No export refund shall be granted on meat sold under this Regulation.

Removal orders as referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, export declarations and, where appropriate, T5 control copies shall contain one of the following entries:

- Productos de intervención sin restitución [Reglamento (CE) n° 359/1999]
- Interventionsvarer uden restitution [Forordning (EF) nr. 359/1999]
- Interventionserzeugnisse ohne Erstattung [Verordnung (EG) Nr. 359/1999]
- Προϊόντα παρέμβασης χωρίς επιστροφή [κανονισμός (ΕΚ) αριθ. 359/1999]
- Intervention products without refund (Regulation (EC) No 359/1999)
- Produits d'intervention sans restitution [règlement (CE) n° 359/1999]
- Prodotti d'intervento senza restituzione [Regolamento (CE) n. 359/1999]
- Producten uit interventievoorraden zonder restitutie [Verordening (EG) nr. 359/1999]
- Produtos de intervenção sem restituição [Reglamento (CE) n.º 359/1999]
- Interventiotuotteita — ei vientitukea [Asetus (EY) N:o 359/1999]
- Interventionsprodukt utan exportbidrag [Förordning (EG) nr 359/1999].

Article 9

Regulations (EC) No 2145/98 and (EC) No 2161/98 are hereby repealed.

Article 10

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 205, 3. 8. 1985, p. 5.

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

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä (tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)

a) **Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

DEUTSCHLAND	— Vorderviertel	2 500
	— Hinterviertel	2 500
ESPAÑA	— Cuartos delanteros	2 500
	— Cuartos traseros	2 500
FRANCE	— Quartiers avant	2 500
	— Quartiers arrière	2 500

b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**

IRELAND	— shank (code INT 11)	500
	— thick flank (code INT 12)	200
	— topside (code INT 13)	200
	— silverside (code INT 14)	200
	— rump (code INT 16)	200
	— flank (code INT 18)	500
	— fore rib (code INT 19)	500
	— shin (code INT 21)	500
	— shoulder (code INT 22)	500
	— brisket (code INT 23)	500
	— forequarter (code INT 24)	500

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- (¹) Véanse los anexos V y VII del Reglamento (CEE) n° 2453/93 (DO L 225 de 4. 9. 1993, p. 4), cuya última modificación la constituye el Reglamento (CE) n° 2368/96 (DO L 323 de 13. 12. 1996, p. 6).
- (¹) Se bilag V og VII til forordning (EØF) nr. 2453/93 (EFT L 225 af 4. 9. 1993, s. 4), senest ændret ved forordning (EF) nr. 2368/96 (EFT L 323 af 13. 12. 1996, s. 6).
- (¹) Vgl. Anhänge V und VII der Verordnung (EWG) Nr. 2453/93 (ABl. L 225 vom 4. 9. 1993, S. 4), zuletzt geändert durch die Verordnung (EG) Nr. 2368/96 (ABl. L 323 vom 13. 12. 1996, S. 6).
- (¹) Βλέπε παραρτήματα V και VII του κανονισμού (ΕΟΚ) αριθ. 2453/93 (ΕΕ L 225 της 4. 9. 1993, σ. 4), όπως τροποποιήθηκε τελευταία από τον κανονισμό (ΕΚ) αριθ. 2368/96 (ΕΕ L 323 της 13. 12. 1996, σ. 6).
- (¹) See Annexes V and VII to Regulation (EEC) No 2453/93 (OJ L 225, 4.9.1993, p. 4), as last amended by Regulation (EC) No 2368/96 (OJ L 323, 13.12.1996, p. 6).
- (¹) Voir annexes V et VII du règlement (CEE) n° 2453/93 (JO L 225 du 4. 9. 1993, p. 4). Règlement modifié en dernier lieu par le règlement (CE) n° 2368/96 (JO L 323 du 13. 12. 1996, p. 6).
- (¹) Cfr. allegato V e VII del regolamento (CEE) n. 2453/93 (GU L 225 del 4. 9. 1993, pag. 4), modificato da ultimo dal regolamento (CE) n. 2368/96 (GU L 323 del 13. 12. 1996, pag. 6).
- (¹) Zie de bijlagen V en VII van Verordening (EEG) nr. 2453/93 (PB L 225 van 4. 9. 1993, blz. 4), laatstelijk gewijzigd bij Verordening (EG) nr. 2368/96 (PB L 323 van 13. 12. 1996, blz. 6).
- (¹) Ver anexos V e VII do Regulamento (CEE) n.º 2453/93 (JO L 225 de 4. 9. 1993, p. 4). Regulamento com a última redacção que lhe foi dada pelo Regulamento (CE) n.º 2368/96 (JO L 323 de 13. 12. 1996, p. 6).
- (¹) Katso asetuksen (ETY) N:o 2453/93 (EYVL L 225, 4.9.1993, s. 4), sellaisena kuin se on viimeksi muutettuna asetuksella (EY) N:o 2368/96 (EYVL L 323, 13.12.1996, s. 6) liitteet V ja VII.
- (¹) Se bilaga V och VII i förordning (EEG) nr 2453/93 (EGT L 225, 4.9.1993, s. 4), senast ändrad genom förordning (EG) nr 2368/96 (EGT L 323, 13.12.1996, s. 6).
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*ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II —
ALLEGATO II — BIJLAGE II — ANEXO II — LIITE II — BILAGA II*

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BUNDESREPUBLIK DEUTSCHLAND

Bundesanstalt für Landwirtschaft und Ernährung (BLE)
Postfach 180203, D-60083 Frankfurt am Main
Adickesallee 40
D-60322 Frankfurt am Main
Tel.: (49) 69 1564-704/772; Telex: 411727; Telefax: (49) 69 15 64-790/791

ESPAÑA

FEGA (Fondo Español de Garantía Agraria)
Beneficencia, 8
E-28005 Madrid
Tel.: (34) 913 47 65 00, 913 47 63 10; télex: FEGA 23427 E, FEGA 41818 E; fax: (34) 915 21 98 32,
522 43 87

FRANCE

Ofival
80, avenue des Terroirs-de-France
F-75607 Paris Cedex 12
Téléphone: (33 1) 44 68 50 00; télex: 215330; télécopieur: (33 1) 44 68 52 33

IRELAND

Department of Agriculture, Food and Forestry
Agriculture House
Kildare Street
IRL-Dublin 2
Tel. (01) 678 90 11, ext. 2278 and 3806
Telex 93292 and 93607, telefax (01) 661 62 63, (01) 678 52 14 and (01) 662 01 98

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 December 1998

relating to the conclusion of an Agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe

(1999/132/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1035/97 ⁽¹⁾, and in particular Article 7(3) thereof, in conjunction with Article 228(2), second sentence, and (3), first subparagraph, of the EC Treaty,

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

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

Whereas the Agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe, should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Community and the Council of Europe provided for by Article 7(3) of

Council Regulation (EC) No 1035/97 shall be approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the Community ⁽⁴⁾.

Article 3

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

Done at Brussels, 21 December 1998.

For the Council

The President

M. BARTENSTEIN

⁽¹⁾ OJ L 151, 15. 6. 1997, p. 1.

⁽²⁾ OJ C 171, 5. 6. 1998, p. 10.

⁽³⁾ OJ C 359, 23. 11. 1998.

⁽⁴⁾ The date of the entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

AGREEMENT

between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe

THE EUROPEAN COMMUNITY AND THE COUNCIL OF EUROPE,

WHEREAS the Council of the European Union adopted, on 2 June 1997, Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia (hereinafter the 'Centre');

WHEREAS the objective of the Centre is to provide the Community and its Member States with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and anti-semitism;

WHEREAS the Council of Europe already has considerable experience in this field;

WHEREAS, in pursuing its activities, the Centre must take account of activities already carried out by the Council of Europe and thereby provide added value; whereas close links should now be established with the Council of Europe, and in particular with the European Commission against Racism and Intolerance (ECRI);

WHEREAS the Centre must, pursuant to Regulation (EC) No 1035/97, coordinate its activities with those of the Council of Europe, particularly with regard to its programme of activities;

WHEREAS it is for the Council of Europe to appoint one independent person as a member of the Centre's Management Board,

HAVE AGREED AS FOLLOWS:

I. Exchange of information and data

1. Regular contacts shall be established at the appropriate level between the Director of the Centre and the General Secretariat of the Council of Europe, in particular the Secretariat of the European Commission against Racism and Intolerance (hereinafter referred to as 'the ECRI').
2. The Centre and the ECRI shall provide each other with information and data collected in the course of their activities. This does not extend to confidential data and activities produced or undertaken by the two bodies.
3. Information and data provided to each other may be used by the Centre and the ECRI in the course of their respective activities.
4. The Centre and the ECRI shall ensure, through their networks, the widest possible dissemination of the results of their respective activities on a reciprocal basis.
5. The Centre and the ECRI shall ensure regular exchanges of information concerning activities proposed, under way or completed.

II. Cooperation

6. Regular consultations shall be held between the Centre and the ECRI, to coordinate their activities and in particular to draw up the Centre's work programme. The purpose of the consultations shall be to ensure that the programmes of the two bodies complement each other and to avoid, insofar as possible, unnecessary duplication.
7. Further, on the basis of such consultation, it may be agreed that the Centre and the ECRI should conduct joint and/or complementary activities on subjects of common interest. The aim of such cooperation shall be to optimise total resources available, notably as regards scientific research projects.

III. Appointment by the Council of Europe of a prominent figure to serve on the Centre's Management Board

8. The Secretary-General of the Council of Europe shall appoint an independent person from among the Members of the ECRI to serve on the Centre's Management Board, together with a deputy.

This question shall be dealt with in the context of the regular contacts between the European Commission and the Secretary-General of the Council of Europe.

Hecho en Estrasburgo, el diez de febrero de mil novecientos noventa y nueve.

Udfærdiget i Strasbourg den tiende februar nitten hundrede og nioghalvfems.

Geschehen zu Straßburg am zehnten Februar neunzehnhundertneunundneunzig.

Έγινε στο Στρασβούργο, στις δέκα Φεβρουαρίου χίλια εννιακόσια ενενήντα εννέα.

Done at Strasbourg on the tenth day of February in the year one thousand nine hundred and ninety-nine.

Fait à Strasbourg, le dix février mil neuf cent quatre-vingt-dix-neuf.

Fatto a Strasburgo, addì dieci febbraio millenovecentonovantanove.

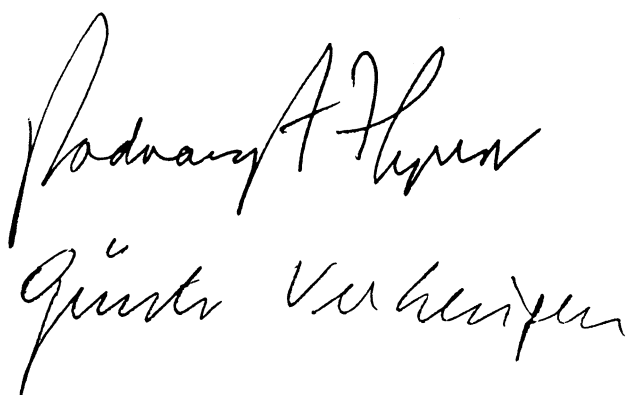
Gedaan te Straatsburg, de tiende februari negentienhonderd negenennegentig.

Feito em Estrasburgo, em dez de Fevereiro de mil novecentos e noventa e nove.

Tehty Strasbourgissa kymmenentenä päivänä helmikuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäyhdeksän.

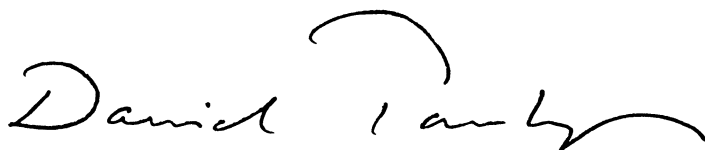
Som skedde i Strasbourg den tionde februari nittonhundranittionio.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Rodolfo A. Heredia
Günter Vukobratovic

Por el Consejo de Europa
For Europarådet
Für den Europarat
Για το Συμβούλιο της Ευρώπης
For the Council of Europe
Pour le Conseil de l'Europe
Per il Consiglio d'Europa
Voor de Raad van Europa
Pelo Conselho da Europa
Euroopan neuvoston puolesta
På Europarådets vägnar



Daniel Danby

COMMISSION

COMMISSION DECISION

of 10 June 1998

concerning State aid in favour of *Coopérative d'exportation du livre français* (CELF)

(notified under document number C(1998) 1728)

(Only the French text is authentic)

(Text with EEA relevance)

(1999/133/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 given the parties concerned the opportunity to submit their comments, in accordance with Article 93,

Whereas:

By letters dated 2 April 1992 and 23 February 1993 the Commission asked the French Government to provide information on the measures in respect of CELF. By letter dated 29 June 1992 and fax dated 19 April 1993 the French authorities sent the Commission information concerning CELF.

On 7 August 1992 the Commission wrote to SIDE confirming that the aid had not been notified, and requesting it to send the Commission any further information which it considered relevant. By letter dated 7 September 1992 SIDE submitted information to the Commission.

I. ANNULMENT OF THE CELF DECISION

On 18 September 1995, the Court of First Instance (hereinafter 'the Court'), in its judgment, Case T-49/93, *SIDE v. Commission* ⁽¹⁾, partly annulled a Commission decision of 18 May 1993 which had authorised aid granted by the French Government to exporters of French-language books. The Court annulled the decision in so far as it concerned aid granted to *Coopérative d'Exportation du Livre Français* (CELF) to offset the extra cost involved in handling small orders placed by foreign booksellers.

On 18 May 1993 the Commission decided to raise no objection to the aid. On 27 May the Commission wrote to SIDE to inform it of this decision. By letter of 10 June the Commission informed the French Government that the aid had been authorised under the exemption provision in Article 92(3)(c) of the Treaty.

II. PROCEEDINGS PRIOR TO THE COURT ACTION

On 20 March 1992, *Société Internationale de Diffusion et d'Édition* (SIDE), a competitor of CELF's and the party which subsequently brought the Court action, wrote to the Commission asking whether aid granted to and by CELF had been notified in accordance with Article 93(3) of the Treaty.

III. MAIN FINDINGS OF THE COURT OF FIRST INSTANCE

On 2 August 1993 SIDE applied to the Court of First Instance for the annulment of the decision taken by the Commission. SIDE put forward three pleas in support of its claims. The Court upheld one of these, alleging breach of Article 92(3), and accordingly annulled the relevant parts of the Commission's decision on procedural grounds.

⁽¹⁾ [1995] ECR II-2501.

In the contested decision, the Commission applied the derogation under Article 92(3)(c), on the basis of the cultural aim of the schemes involved and the special situation with respect to competition in the book sector. The Court therefore considered, first, whether the Commission had been able to establish that the objective pursued by the French authorities was in fact cultural and, second, whether it had carried out an economic analysis of the sector enabling it to conclude that the aid did not affect conditions of competition and trade to an extent contrary to the common interest.

As regards the purpose of the aid, the Court accepted that the Commission was legitimately satisfied that the objective was a cultural one. On the second point, however, the Court found that the information on which the Commission based its analysis of the compatibility of the aid with the common market was inadequate.

The Court concluded that the Commission should have initiated proceedings under Article 93(2) in order to allow all parties concerned to make their views known, so as to ensure that it was aware of the essential aspects of the matter before it took a decision, and could ascertain whether its assessment, which gave rise to serious difficulties, was correct.

IV. PROCEEDINGS UNDER ARTICLE 93(2) OF THE TREATY

Before considering whether or not to initiate inquiry proceedings the Commission wrote to the French authorities, on 17 October 1995, asking them to inform it of any changes they might have made to the aid granted to CELF in the light of the judgment delivered by the Court. The French authorities replied by letter dated 5 December 1995, stating that no changes had been made to the aid arrangements.

On 7 June 1996 a meeting took place between SIDE and the Commission. On 28 June SIDE submitted further information to the Commission that it considered relevant to the case.

On 30 July 1996 the Commission decided to open proceedings pursuant to Article 93(2) of the Treaty against the aid. It informed the French Government of that decision by letter dated 21 August.

In reply to a French Government letter of 23 September 1996 the Commission agreed, by letter dated 1 October, to allow further time for a response to the decision.

On 13 October 1996 SIDE wrote to the Commission explaining that it had brought an action before the Paris Administrative Court seeking to have the compensatory

subsidy for small orders abolished and the sums paid so far reimbursed.

The Commission notice asking interested parties to comment on the case was published on 5 December 1996⁽²⁾. During December 1996 and January 1997 the Commission received submissions from several parties, most of whom opposed the aid granted to CELF (see section VII). The Commission passed on those observations to the French Government in a letter of 15 April 1997. In a letter dated 6 January 1997 SIDE had complained of the slowness of the procedure at national level and asked the Commission to take urgent measures requiring the French Government to 'suspend forthwith the payment of all aid for the export of books and all aid that is liable to distort competition on the export agency market, regardless of who is the official recipient, and to order that the aid granted unlawfully since 1980 be repaid'.

In letters dated 2 July and 25 July 1997 SIDE drew the Commission's attention to the fact that the French authorities were still aiding CELF unlawfully, and complained at the slowness with which the French Government was responding to the observations submitted by interested parties.

The French Government replied to the Commission's decision to open proceedings in a lengthy letter dated 12 December 1996, and to the submissions by interested parties in another extensive letter dated 1 October 1997. A meeting between representatives of the Commission and the French authorities took place on 29 October 1997. Following those discussions, the French Government submitted further information and observations to the Commission in letters dated 30 October and 21 November 1997.

By letter dated 19 December 1997 SIDE sent the Commission a copy of the rejoinder it had lodged that month in its proceedings at national level against the French State concerning the aid granted illegally to CELF. On 10 February 1998 the Commission received a copy of the French Government's rejoinder in the same case.

On 13 February 1998 Commission representatives met representatives of the French authorities and of CELF to discuss the question of the proportionality of the aid in more detail.

By letter dated 5 March 1998 the French authorities submitted further information, relating in particular to the compensatory nature of the aid. By faxes dated 26 March and 10 April CELF provided the Commission with

⁽²⁾ OJ C 366, 5. 12. 1996, p. 7.

updated information on the extra costs of handling small orders and on the compensatory nature of the aid to the Commission. By fax dated 17 April the Ministry of Culture likewise provided additional information. Finally, by fax dated 19 May, the French authorities again supplied further information to the Commission.

V. FOUNDATION AND OBJECTS OF CELF AS A COOPERATIVE SOCIETY

Coopérative d'Exportation du Livre Français, trading as *Centre d'Exportation du Livre Français* (CELF), is a cooperative society in public limited company form (*société anonyme coopérative*) whose object, according to its present statutes, is 'directly to handle orders from abroad or the overseas territories and departments for books, brochures and all communications media, and more generally to carry out any transactions for the purpose, in particular, of furthering the promotion of French culture throughout the world by means of the abovementioned media'.

Most of the 101 members of CELF are publishers established in France, although membership is open to anyone engaged in the publication or distribution of French-language books, irrespective of their place of establishment. CELF distributes books commercially, mainly in countries and areas that are not French-speaking, since in French-speaking areas, particularly Belgium, Switzerland and Canada, that task is performed by the distribution networks set up by publishers (see section X for an analysis of the market).

The French Government states that prior to the setting up of CELF small orders were in many cases handled as part of the international activities of Hachette, the structure for which was established between the wars when distribution networks had not yet been developed. These activities were loss-making, however, and Hachette decided to end them in 1976. CELF was founded in 1977. In 1979 it was in financial difficulties, and booksellers, publishers, the *Syndicat National de l'Édition* and the public authorities reached agreement that it should be preserved, particularly because the handling of small orders was felt to be a service of general economic interest and no other economic operator was willing to undertake it. Thus the grant of compensatory subsidies towards the handling of small orders began in its present form only in 1980.

CELF currently carries on the following activities:

- its main activity is distribution. As a wholesaler, CELF supplies only to publishers and booksellers who have placed firm orders,
- dissemination (*diffusion*) is a more recent activity, in which CELF offers publishers the equivalent of an export structure. This allows publishers to be represented in geographical areas which they regard as less important without having to run the risks normally associated with exporting,
- CELF administers State-supported public programmes, such as the handling of small orders and certain aid schemes; the Court accepted that these could be authorised on the ground that they did not affect trade between Member States,
- the 'Cézame' CD-ROM is a new activity which is not supported by the State. In 1996 CELF decided to launch a CD-ROM for use by booksellers. It enables them to order books on line from CELF or any other supplier.

VI. THE AID GIVEN TO CELF TOWARDS THE HANDLING OF SMALL ORDERS

The operating subsidy granted to CELF is intended to offset the extra cost involved in handling small orders from booksellers abroad. It enables CELF to meet orders which publishers or their associated distributors do not consider it profitable to satisfy, given the increased transport costs and the total value of the order involved. Consequently, the grant of that subsidy helps to spread the French language and to propagate French-language literature.

According to the French Government, other possible ways of achieving the objectives pursued by means of the subsidy granted to CELF, such as granting aid direct to the many bookshops concerned, or to the publishers and distributors who would undertake to fill such small orders, were thought to be too costly and likely to create problems of supervision. The solution adopted was the one which appeared to be the most rational in economic terms, the safest in terms of the use of public money and the least disruptive for distribution channels. It consists of administering the scheme at the export agent level by offsetting the extra expense involved in handling booksellers' small orders through provision of a specific subsidy from the Ministry of Culture.

Among the various operators involved in the distribution of books, agents (*commissionnaires*), who deal only with retailers or organisations but not with the final consumer, enable orders which publishers or their distributors consider unremunerative to be satisfied. The agent collects orders, each inconsiderable in itself, from different customers and approaches the publisher or distributor, who thus needs to deliver to only one place. If the customers are booksellers or institutions which wish to place orders for works from different publishers, the agent makes up the respective packages and thus spares

his customers the need to place multiple orders with many different suppliers. On account of the fixed costs for handling each order, an agent's involvement makes it possible to make savings at both the distributor level and the customer level, which makes it economically worthwhile.

In practice the aid is granted in the following way. Booksellers who need small quantities of works published by different publishers place their orders with CELF, which then acts as export agent. The subsidy is specifically designed to make it possible to meet orders to the value of less than FRF 500, excluding costs of carriage, which are considered to be below the break-even point. One quarter of the amount of subsidy granted during the previous year is disbursed at the beginning of the year, the balance being granted in autumn, after the public authorities have examined CELF's operational estimates and the fluctuations in the first part of the financial year. Within three months of the end of the financial year, an account showing how the subsidy has been used must be forwarded to the Ministry of Culture and French Language.

The amount of aid budgeted is normally FRF 2 million per year. However, the unused balance, if any, is set off against the sum to be granted in the subsequent year. The aid amounted to FRF 2 million in 1990, FRF 2,4 million in 1991, FRF 2,7 million in 1992 and FRF 2,5 million in 1993. The aid actually used in 1992 was FRF 1,7 million, rather than the budgeted estimate of FRF 2,7 million. The same trend has continued in subsequent years: in 1994 and 1995 the aid amounted to some FRF 2 million, so that for the years 1992 to 1995 the average was FRF 2,0675 million (FRF 1,77 million in 1992, FRF 2,5 million in 1993). In 1996, the amount of the aid again totalled FRF 2 million. Once again, however, the level of small orders was somewhat lower that year, and CELF received only FRF 1,6 million in 1997.

According to the French authorities, the handling of small orders requires a series of manual tasks and procedures, and this makes such operations more costly than large orders. The average value of the orders is low, and the additional costs mean that handling them is largely an unprofitable business. The French authorities have submitted a calculation of the extra costs, based on a cost accounting system which ascertains the costs of the specific operations involved in the handling of small orders. These operations are explained below.

The handling of a small order begins with the receipt of an order sent by a bookseller. When the order is received, the customer's details are checked (for example to identify the bookseller, to ensure that he is solvent, and to establish whether or not he is insured). CELF carries out these checks systematically, regardless of the value of the order. In the case of small customers the checks usually have to be carried out more often, and are consequently more time-consuming.

A search is then made in which the ISBN numbers of the books ordered are identified, the books are found in publishers' catalogues and databanks (such as Électre, Cézame and Minitel), and their availability is verified. The precision of the information in the order form and the provenance of small orders are important here. Large publishing houses have automated systems for placing orders; they use modern facilities which enable CELF to identify the material ordered easily. But the majority of CELF's customers are small booksellers, and this increases the workload, even though the proportion of CELF's turnover accounted for by small orders is only 4,8 %. Book searches and books out of print entail additional costs to CELF.

The order is sent to a publisher either electronically (via Édilectre or Allegro)⁽³⁾ or on paper. Orders sent to large publishers such as Point Seuil, Folio Gallimard or Hachette pose no particular problems. But most orders are sent to small publishers and cannot be dealt with electronically. CELF states that the additional costs are particularly apparent here, since small orders are often for books published by publishers operating in a structure which requires special treatment. Of all small orders, 67 % are handled without the use of automated transmission. Terms of payment also depend to a great extent on the size of the publisher. For instance, small publishers tend to require payment immediately.

As regards transport costs, large publishing houses currently charge FRF 0,75 per kilogram for delivery to customers in Paris, a price agreed in the trade. Books from small distributors are delivered by express parcel services at FRF 6,5 per kilogram, and by the post office at FRF 24 per kilogram. The charges invoiced to foreign booksellers are fixed on a global basis, and according to the French Government this reduces margins on the handling of their orders.

Each delivery has to be carefully wrapped, and a detailed invoice has to be made out in triplicate, one copy being attached to the parcel, one being sent to the customer by post, and one being retained for accounting purposes.

⁽³⁾ Books published by large publishing houses can be recognised automatically by optical scanning using the EAN code.

Finally, CELF's accounts department has to register all the operations referred to above. The French Government points out here that the registration of an invoice with a value of FRF 100 involves the same amount of work as the registration of one with a value of FRF 10 000 or more.

In terms of statistics, the French Government submits that the year 1994 provides an illustration of the normal level of small orders handled. In that year, the number of invoices for small orders was 9 725, or 47 % of the total number of invoices issued by CELF, which was 20 672. These small orders were placed by 1 848 customers, and amounted to 19 761 items and 24 933 books ordered. Turnover deriving from invoices with a value of less than FRF 500 totalled FRF 2,28 million. This amounted to only 4,83 % of the CELF's total turnover⁽⁴⁾.

On the question of the profitability of small orders, the French Government accepts that some orders falling below the FRF 500 threshold may be profitable while others are not. The profitability of an order depends on the type and number of books involved and the precision of the information supplied on the order form. The French authorities maintain, however, that orders of FRF 500 or less, to all of which CELF is required to respond, are generally unprofitable. The French authorities arrived at this threshold on the basis of objective considerations: on economic criteria alone, orders between FRF 0 and FRF 500 will not be profitable overall to a private operator; orders under FRF 500 are mainly for books published by publishers who do not use automated systems (67 %); and the handling of small orders up to FRF 500 means that small accounts have to be managed. On purely economic grounds an agent would not handle such orders. The French authorities base this argument on their cost accounting analysis.

Type of order	Number of books	Total cost (1)	Unit cost (1)
Other orders	442 740	53 666 275	121,21
Small orders	24 933	4 485 354	179,90
Total	467 673	58 151 629	124,34

(1) Before the breakdown of non-attributable costs related to small orders.

In 1994 the number of books sold in response to small orders was 24 933. Earnings from small orders amounted to FRF 2,5 million, i.e. FRF 100,2 per book sold. The total cost of handling small orders was FRF 4,48 million, i.e. FRF 180 per book. Comparing the two figures, the loss per book incurred in the handling of a small order can be estimated at $100,2 - 179,6 = \text{FRF } 79,4$. On average a small order is for 2,56 books, so that the average loss per order is $79,4 \times 2,56 = \text{FRF } 203,2$. The French Government notes that these figures are the same as those which the authorities submitted to the Court of First Instance in April 1995.

The table below presents an overall analysis of the coverage of extra costs by the aid granted to CELF. The result obtained from the cost accounting gives a surplus of about FRF 50 000. It is important to note, however, that revenues totalling some FRF 44 000 are not directly related to the small order activity of CELF but were nevertheless included for reasons of transparency⁽⁵⁾. That sum has accordingly been deducted from the total result, thereby giving a pre-tax result of some FRF 5 600 which is directly attributable to small orders.

⁽⁴⁾ CELF has submitted a list containing information on all orders for the year 1994 (showing such things as bookseller, country, number of invoices of FRF 500 or less, number of items ordered, number of books ordered, value in FRF, number of items supplied, etc.).

⁽⁵⁾ According to CELF, these revenues are related to other activities of CELF, in particular to the 'Plus' programme.

According to the French Government, this result indicates that the amount of the subsidy to offset the additional cost of handling small orders is correctly evaluated. In this respect the French authorities point out that if, following ex-post checking of the activity of CELF, it emerges that the subsidy paid was too high, the excess is either set off against the subsidy for the following year or repaid, and that the subsidy is allocated in accordance with strict rules and in an endeavour to achieve full transparency.

<i>(in FRF)</i>	
Overview of the coverage of extra costs by the aid	Amount
Turnover on small orders of less than FRF 500 ⁽¹⁾	2 419 455
Other earnings	55 247
Subsidy	2 000 000
Total turnover (I)	4 474 702
Purchases of books, including transport	2 106 939
Staff costs	1 670 963
Overheads	660 719
Total costs (II)	4 438 621
Operation result (III) = (I) – (II)	36 082
Non-recurring net items (IV)	14 383
Pre-tax result from small order activity (III) + (IV) (cost accounting)	50 465
of which: items not directly related to small orders	44 822
<i>Pre-tax result directly attributable to small orders</i>	<i>5 643</i>

⁽¹⁾ Including packaging, insurance and transport.

VII. OBSERVATIONS SUBMITTED TO COMMISSION IN THE ARTICLE 93(2) PROCEEDINGS

In the course of the Article 93(2) proceedings various economic operators made submissions to the Commission; these are discussed further in sections XI and XIII.

The *Syndicat national des importateurs et exportateurs de livres* ('SNIEL') considered that the handling of small orders covered by the compensatory subsidy was CELF's sole object; it produced estimates showing that these small orders averaged FRF 300 in amount, and made up about 6 % of CELF's turnover, which in its view meant that 94 % of CELF's turnover was accounted for by an activity which CELF ought not to be pursuing.

SNIEL believed that the compensatory subsidy was too high, first because the total was close to the turnover achieved through small orders, whereas 'it seems impossible that the costs arising out of these small invoices should amount to FRF 3 million (amount of operating subsidies + estimated margin)'; and second because the

FRF 500 threshold which was used to define 'small' orders was too high, when the proportion of some operators' orders which was for higher amounts was only 50 %. SNIEL did not call into question the principle of aid for non-profitable orders, but nevertheless considered that CELF was using the subsidy to pursue other activities for commercial purposes.

The exporting bookseller *Aux Amateurs de Livres International*, which supplies to university libraries, argued that it contributed to the spread of French culture and the French language without public support. It took the view that the compensatory subsidy, which it said accounted for some 3 % of CELF's turnover, allowed CELF to grant an additional discount of three percentage points to its customers. It pointed out that CELF now supplied libraries itself, and argued that CELF could not therefore any longer receive a subsidy for small orders placed by book-sellers.

Aux Amateurs de Livres International also stated that the subsidy was 'a piece of hypocrisy'; it was 'amazed that the subsidy can amount to more than 60 % of the amount of the orders involved'. It took the view that the aid promoted the development of CELF's business activities. It concluded that the scheme should be stopped, that aid already disbursed should be refunded, that the aid should be divided 'between the booksellers concerned in proportion to their turnover on business with third countries', and that CELF should be prohibited from supplying to anyone but foreign booksellers.

Hexalivre, which is likewise a bookseller whose clientele consists of institutional customers established abroad, took the view that CELF, whose task was to supply booksellers abroad, ought not in principle to be interfering with Hexalivre's own business. The subsidy, according to Hexalivre, was given to a 'private company supported by the public authorities and as near as possible approaching a monopoly position'. But the facts of the situation were a different matter, Hexalivre maintained, 'firstly because of a clear restrictive agreement among the various bodies subsidised for the purpose of disseminating and distributing French books abroad, and secondly because of direct intervention by the authorities in our business'.

Mr Van Ginneken, manager of Hexalivre, submitted separate observations on behalf of a second company which bears his name and which operates broadly as an exporting wholesaler; he began by setting out a background summary of his relations with CELF, having previously been one of its representatives. Mr Van Ginneken expressed surprise that he could have been given an incentive (*commissionné*) for sales involving small orders, since CELF was receiving a subsidy.

Mr Van Ginneken criticised the 'permanent ambiguity' of CELF. He criticised the publishing houses' stakes in CELF, since he argued that this induced them to give preferential treatment to it, notably by establishing permanent CELF offices. He took the view that its position as an administrator of public programmes gave it an advantage, even if some of the programmes had been transferred to other operators.

Lavoisier/Tec et Doc, a scientific and technical publisher and exporting bookseller, whose manager is also chairman of SNIEL, and which is one of the shareholders in CELF, took the view that CELF was intended to operate only as an export agent for foreign booksellers, and not to supply institutional customers. Stressing that publishers had been asked to grant their best terms and

conditions to CELF, Tec et Doc presented information to show that the terms and conditions that CELF in turn offered to foreign booksellers were not particularly advantageous. Tec et Doc took the view that CELF was exploiting its image of being 'the preferential partner of publishers and the public authorities', which it used in its business, and that it took advantage of the preferential terms and conditions of publishers to supply institutional customers.

Tec et Doc did not call into question the purpose of the subsidy, but considered that the FRF 500 threshold for small orders was not justified. On the basis of estimates showing that these sales accounted for between 3 % and 6 % of turnover, i.e. between FRF 1 500 000 and FRF 3 million, Tec et Doc argued that aid amounting to between FRF 2 million and FRF 2 400 000 was disproportionate, unless productivity was particularly low. Tec et Doc considered that a proportion of small orders of 3 % to 6 % was not in any way an intolerable burden⁽⁶⁾. Tec et Doc stated that about 50 % of the orders it received were 'small' orders. On the basis of the orders sent to it by CELF over a two-month period, Tec et Doc concluded that CELF received few small orders.

Tec et Doc called for 'the re-establishment of conditions of normal competition in exports, in particular by abolishing aid which is not based on a genuine public-service task or a clear cultural objective that cannot be achieved by existing means'.

SIDE began by arguing that within the book exports market there was an export agency submarket on which it was in competition with CELF. While it acknowledged that export agents generally handled books published in their own country, it took the view that the market nevertheless had a Community dimension. CELF had built up a conventional export agency business, with small orders accounting for only 3 % of its turnover, and its public-service task was nowhere clearly identified.

SIDE argued that the Commission's inquiries ought to cover not just the compensatory subsidy for small orders but also 'the whole complex of aid granted not only to CELF, but also to various bodies which, like it, group together publishers and the public authorities in a highly opaque manner'. As far as the other bodies were concerned, SIDE took the view that all the state measures to assist exports of French books distorted competition on the export agency market.

SIDE denied that the aid was aid for the propagation of culture. Firstly, it argued, the concept of small order made no sense to an export agent, who in the nature of things handled small orders without any need for a subsidy. The profitability of the business had to be seen in overall

⁽⁶⁾ The French Government observes here that what is in fact involved is 3 % to 6 % of turnover, and not 3 % to 6 % of orders. Almost 50 % of the orders are small orders.

terms, not in terms of the individual value of each order. The FRF 500 threshold applied by the French authorities was arbitrary. The aid was consequently operating aid. The French Government had never indicated the legal basis on which the aid was based, still less the criteria applied in granting it. SIDE considered that the aid granted to CELF was incompatible with the common market. The aid granted to other operators, which had been referred to by the French Government during the proceedings, was in no way comparable.

CELF cited various letters from publishers expressing their satisfaction with CELF's performance and with the mechanism at issue.

VIII. ARGUMENTS PRESENTED BY THE FRENCH AUTHORITIES

In its letter informing the French Government of the initiation of proceedings, the Commission noted that the objective of the aid was amongst those which could qualify for exemption from the ban on aid laid down in Article 92(1) of the Treaty. The aid had a clear cultural purpose, covered by Article 92(3)(d), in that its object was to spread the French language and to propagate French-language literature.

However, the Commission wondered whether, despite the objective pursued, the impact of the aid on competition might not be such as to affect trade to an extent contrary to the common interest. The Commission referred both to the impact on book publishing itself and to the impact on the various operators distributing and exporting books. The Commission did point out, however, that constraints of language and culture might limit intra-Community trade in books, and that this would reduce the impact on trade between Member States.

On competition in publishing, the French Government points out that the book trade is distinguished by a very low degree of product substitutability, since the contents of each title are specific to that title. There is some product substitutability only in limited subcategories of books, generally of a technical nature and very rarely literary. At Community and international level, substitutability is even smaller, owing to language barriers. There is genuine competition between books only where the distinctive qualities of the author's writing are of little importance and the books are published in the same language.

Given its objective, the aid can affect competition only in respect of books published in the French language. However, as the Commission is aware, the CELF aid mechanism is open to any French-language book, regardless of the country in which it is published, and regardless

of whether or not the publisher is a CELF shareholder. And because of the way it is designed the mechanism by which the aid is granted does not affect the four countries in which competition between French-language works is greatest, and which represent the bulk of the market, namely France, Belgium, Switzerland and Canada. The impact on competition between publishers is consequently very marginal.

On competition in the distribution and export of books, the French Government stresses that the mechanism is not in any way likely to affect the business of publishers distributing their own works or of ordinary distributors. Because they are so small, the orders to which the aid relates are never handled by such operators, and in any event the aid benefits them indirectly, since it is to them that CELF turns to obtain its supplies. Any competitive impact which the aid may have therefore arises only in respect of operators engaged in the export agency business.

The orders which the mechanism is intended to render feasible are outside the normal market, even if in individual cases an individual operator may accept them. They account for only a very small proportion of an export agent's turnover (less than 5 % in the case of CELF in 1994, even though it has the aid mechanism to support it). Thus the aid does not significantly reduce the level of sales by operators in the relevant segment. It should also be borne in mind that for most of CELF's competitors, exporting French-language books on an agency basis is merely one activity amongst others; they all have another clientele (such as institutions for example), or sell other books (SIDE acknowledges that only 50 % of its turnover derives from French-language works), or carry on another business (such as a conventional bookshop). Above all, the system is open to any operator who accepts a sufficient degree of transparency.

The French Government therefore considers that, in the light of the objective pursued, the impact of the aid on competition cannot be regarded as affecting trading conditions to an extent contrary to the common interest. On the contrary, the aid promotes trade between French-speaking Member States and non French-speaking Member States in the relevant field.

In reply to the allegations put forward by third parties, the French Government argues that CELF was indeed initially assigned the task of handling small orders placed by foreign booksellers, but that this did not preclude it from diversifying its activities into other areas like any other economic operator. When granting the aid, the public authorities have taken account of the fact that CELF's main business is that of an export agent, and this

fact has satisfied them that it is in a position to carry out the task of supplying to small foreign bookshops. This does not, however, prevent CELF from carrying on other activities, provided that they do not obstruct its public service function.

The French Government takes the view that the aid is indispensable and proportionate to the performance of a task in the public interest⁽⁷⁾. That task could not be performed without the aid, whose purpose is to make up the losses on unprofitable orders. The French Government therefore considers that the aid falls within the scope of Article 90(2) of the Treaty, and is not caught by Article 92(1), as the Commission concluded in the case of the local tax exemption given to the French post office in consideration of the requirement that it operate throughout the country.

The French Government also contends that even if CELF's main business is that of an export agent, there is no reason why it should not meet orders from final consumers such as libraries. This general business must not prevent it from carrying out the public service entrusted to it by the authorities, which is the handling of small orders from booksellers. Public support for the handling of small orders is designed to facilitate the circulation of publications in French and to consolidate the retail network of bookshops selling French-language books abroad.

CELF provides its services to final consumers, if they so wish, when the local distribution networks are limited. CELF began to supply libraries two years ago, with the agreement of the publishers. For instance, CELF has supplied to Algerian university libraries and the national library of Algeria. CELF was responding to demand from libraries, and was not competing with local booksellers, since in 1994 and 1995 private enterprises in Algeria were not permitted to import.

The French authorities state that if the aid mechanism is found to be compatible with the common market they propose to issue a call for tenders following which the obligation to meet small orders would be entrusted to an export agent in accordance with the criteria already applied at present. While the amount of the aid may change, the mechanism would remain largely as it is now and as it was described to SIDE by the authorities at a meeting on 24 September 1996.

Interested operators would accordingly have to provide at least the following information:

⁽⁷⁾ The French Government points out once more that the use made of the subsidy is monitored *ex post*, with any amounts not used being deducted from the subsidy for the following year.

- data on turnover (total turnover and sales of French-language books abroad), broken down by country,
- the number of French-language books sold country by country,
- the number of small orders already being fulfilled, and the number it is proposed to fulfil with the support of the State,
- precise figures for the losses made on the handling of small orders, the number of publishers concerned, and the degree of openness to other French-language publishers.

To ensure proper supervision, tenderers would also have to agree to certain procedures of control:

- accounts showing the use made of the subsidy, with supporting documents, would have to be submitted within three months of the end of the relevant year, along with a detailed report on the operation, including a financial statement,
- the report would be distributed to the trade as a whole; confidential information on business secrets might be blanked out if necessary,
- without prejudice to control measures applicable to the use of public funds, the successful tenderer would have to allow the public authorities access to documents, and especially accounting documents, showing that the operations towards which the subsidy was granted were being carried out.

The French authorities state that until now there has been no need to advertise the terms of participation in the support mechanism because the scheme has been open to any economic operator wishing to take part on the same conditions as CELF. Furthermore, the SIDE/CELF case is widely known in the trade, and any interested operator could have approached the French authorities.

IX. APPLICATION OF ARTICLE 92(1) OF THE TREATY

Intra-Community competition in the book trade is subject to constraints imposed by language and culture. However, it would be wrong to say that there is no competition at all. Books aided through various schemes may be in competition with books on the same subject or in the same category for which no aid has been awarded. This may happen in fiction, non-fiction or any other category. Aid to promote the publishing, distribution or marketing of certain books can consequently have an effect, albeit limited, on intra-Community competition. Furthermore, such aid may have an effect, not only on competition in the sale or export of books, but also on the

business of other players in the market, such as export agents, publishers with their own export channels, and distributors acting for publishers on a contractual basis.

The aid is granted to CELF to enable it to handle small orders from foreign booksellers. The Commission accepts that the mechanism may be beneficial to buyers of the books, since they do not have to pay the full price, and also to publishers of French-language books, since it boosts their sales; but the Commission takes the view that it is CELF who is the main beneficiary, especially as other export agents who distribute French-language books do not receive such aid towards their small orders.

The subsidy granted to CELF therefore constitutes State aid within the meaning of Article 92(1) of the Treaty.

In the course of the proceedings before the Court, SIDE raised the question of infringement of Articles 85 and 86 of the Treaty; if the Commission should decide to consider CELF's conduct in the light of those provisions, it will do so as a separate matter⁽⁸⁾. This Decision is concerned only with the compatibility of the support mechanism with Article 92 of the Treaty.

Article 93(3) of the Treaty requires Member States to notify the Commission of planned aid measures prior to their implementation. The French Government did not notify the aid for the handling of small orders by CELF before putting it into effect, so that the aid was granted unlawfully. Since in *SIDE v. Commission*, the Court partly annulled the Commission's decision of 18 May 1993 approving the aid granted to CELF, the aid given for the handling of small orders by CELF remains illegal⁽⁹⁾.

Given that the aid is within the scope of the general ban on State aid in Article 92(1) of the Treaty, the Commis-

sion must determine whether or not it qualifies for exemption under any of the derogations in Article 92(2) and (3).

The derogations in Article 92(2) do not apply, because the measures do not pursue any of the objectives listed there. The aid does not satisfy the definition in Article 92(3)(a), as it is not intended to promote regional development in areas eligible for aid under that clause. The first part of Article 92(3)(b) allows 'aid to promote the execution of an important project of common European interest'; this does not apply to the aid to CELF, which is not intended to promote the execution of such a project. Nor is it designed 'to remedy a serious disturbance' in the French economy, so that it does not qualify for exemption under the second part of Article 92(3)(b) either. Article 92(3)(c) is not applicable because the aid is not intended 'to facilitate the development of certain economic activities or of certain economic areas'.

In *SIDE v. Commission*, as already indicated, the Court accepted that the objective pursued by the French Government in granting the aid to CELF was a cultural one, in that the aim was the spread of the French language and French literature (paragraph 62 of the judgment). The Commission would emphasise that is so provided that the aid is used only for the handling of small orders, and does not serve to cross-subsidise other commercial activities carried on by CELF. But if that is so, the only derogation possible is that under Article 92(3)(d), under which 'aid to promote culture and heritage conservation' may be considered to be compatible with the common market 'where it does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest'.

If the Commission is to conclude that the aid granted to CELF for the handling of small orders qualifies for exemption under Article 92(3)(d) of the Treaty, it must establish that it pursues a genuine cultural objective, and then that it does not affect trading conditions and competition to an extent that is contrary to the common interest. An assessment of the relevant market is given in section X, and section XI considers the aid mechanism in terms of the proportionality of the aid, the objective pursued, and its effect in a Community context.

⁽⁸⁾ In the case of *La Poste* (State aid measure No NN 135/92, France), the Commission likewise considered the application of Articles 92 and 90(2) separately from that of Articles 85 and 86.

⁽⁹⁾ The Court upheld the Commission's decision in so far as it authorised aid to CELF for administering public programmes, that is to say aid other than that for the handling of small orders, on the ground that it did not constitute State aid caught by Article 92(1) because it had no effect on trade between Member States; these measures are not considered here and are outside the scope of the State aid rules.

X. ANALYSIS OF THE MARKET IN BOOKS

aid on book publishing itself and on the various operators distributing and exporting books.

The Commission has analysed the detailed information that the parties have submitted to it regarding conditions on the market in books. The analysis has been complicated by features specific to the sector. Developments in the book, magazine and newspaper trade depend on a complex interplay of different factors. For private consumers these include economic and social aspects such as demographics, education, leisure trends, the number of public libraries, and purchasing power. The European printing and publishing industry is more a collection of national industries than an integrated European industry, as can be seen from the small proportion of turnover accounted for by exports. A further barrier to the 'Europeanisation' of the industry is the multiplicity of languages in use across the Community⁽¹⁰⁾.

What has to be established in this case is whether the impact of the aid on competition and intra-Community trade is such as to distort competition to an extent contrary to the common interest. The question is, in other words, whether CELF gains an undue advantage *vis-à-vis* other operators exporting French-language books abroad, be it other export agents, distributors or publishers. For the purposes of this Decision, an assessment has to be made of any effect of the aid on the segment of the book market made up of orders of French-language works with a value of no more than FRF 500.

In its decision to initiate these Article 93(2) proceedings, the Commission referred to the potential impact of the

It is manifest that there is trade in books between Member States, and on the market in books CELF is in competition with other operators exporting French-language books abroad. According to figures published by the Syndicat National de l'Édition⁽¹¹⁾, the total annual turnover of the book sector in France in 1993 amounted to FRF 14 192 million. The relative share of exports of French books to the Community that year totalled 7,8 %, out of which almost half went to Belgium. The share of exports to European countries outside the Community was 2,9 %.

In 1994, the last year for which the Syndicat National de l'Édition has produced statistics, total exports of books from France amounted to FRF 2 978 501 000. CELF had a turnover of FRF 50 million, i.e. about 1,7 % of the total. Small orders of less than FRF 500 accounted for less than 5 % of CELF's turnover (FRF 2,3 million out of a total of FRF 50 million), equal to 0,08 % of exports of books from France.

Data on exports of books, brochures, leaflets and similar printed material from France to other Community Member States, taken from sources other than the *Syndicat National de l'Édition*, is summarised in the table below. These figures likewise show that the bulk of French exports go to Belgium (and Luxembourg).

Exports⁽¹⁾ from France to the other Community countries, 1993-96

(in ECU thousand)

Country	1993	1994	1995	1996
Belgium/Luxembourg	88 465,75	98 392,47	112 953,67	115 192,55
Netherlands	12 305,33	9 866,07	12 745,27	12 914,60
Germany	30 966,57	35 623,91	30 944,99	27 992,26
Italy	10 440,52	15 023,02	12 375,61	13 246,71
United Kingdom	13 218,16	16 994,67	17 800,70	19 278,79
Ireland	305,93	341,61	475,28	2 669,94
Denmark	1 103,78	880,79	874,53	1 505,46
Greece	2 483,90	2 122,86	2 279,57	2 452,32
Portugal	2 707,45	3 056,24	2 919,62	3 052,68

⁽¹⁰⁾ European Commission, *Panorama of EU Industry — 1997*.

⁽¹¹⁾ Syndicat National de l'Édition, *L'Édition de livres en France — Statistiques 1993*.

(in ECU thousand)

Country	1993	1994	1995	1996
Spain	9 555,04	11 709,49	12 796,60	14 474,82
Sweden	1 412,99	1 083,82	1 721,06	3 116,54
Finland	431,30	281,18	1 398,26	803,28
Austria	1 329,44	1 710,14	1 288,18	1 267,96
Total Community	143 759,59	161 462,36	179 628,35	189 975,65

(¹) Books, brochures, leaflets and similar printed material (CN code 4901).

Source: Eurostat (Comext database)

According to the French Government, the distribution of books has to satisfy a number of different needs, depending on the type of customer, who may be a middleman or a final consumer (e.g. a wholesaler, a conventional bookseller, a private consumer, or an institutional customer). The diversity is a reflection of cultural and technical needs, and is influenced by economic conditions. The distribution and marketing of scientific books for university purposes, for example, differs from that of art books aimed at specific readerships or of fiction sold in bookshops. Without government intervention the market alone would not be able to meet all the various needs; supply would be limited to the most profitable business, and the promotion of culture would suffer.

According to the French Government, the main players in the distribution of books are: (i) publishers; (ii) promoters (*diffuseurs*), whether or not integrated into a publishing house, engaged in the commercial promotion of books among retail booksellers and some large institutional consumers; (iii) distributors, whether or not integrated into a publishing house, engaged in the physical distribution of books; they receive orders from booksellers, certain large institutional customers and various intermediaries, and are supplied by the publishers; and (iv) wholesalers, who do not always play a part in the distribution network, and who act as intermediaries between distributors and retail booksellers and large institutional customers. A distinction has to be made between: (v) export agents (*commissionnaires*), who serve retail booksellers and not final consumers; (vi) booksellers mainly serving large institutional customers direct; and (vii) retail booksellers serving the traditional final consumers, whether private or commercial (this category includes both ordinary booksellers and large self-service stores).

In addition, there are some distribution networks in which sales take less traditional forms, such as book clubs, mail-order retail, and direct sales by publishers to final consumers.

SIDE gives a similar description of the French book trade, but puts more emphasis on the distinction between the domestic market and the export market. It argues that CELF, like SIDE, is engaged in exporting books from France. Among operators active in the exporting country (in France, that is to say the domestic market), SIDE distinguishes between the following categories:

- publishers or publishing houses with their own export structure, such as Gründ, Picard or Vrin, themselves export the books they publish. There are also publishing groups, such as *Groupe Hachette* and Gallimard, which channel the exports of several publishing houses through distributors such as *Hachette Livre Diffusion Internationale*, which belongs to *Groupe Hachette*. *Hachette Livre Diffusion Internationale* exports not only books published by Hachette or by Fayard, which is part of the Hachette group, but also books published by Ramsay, for example, or by Calmann-Lévy, which do not belong to the Hachette group,
- distributors are not integrated into publishing houses; their business is to distribute and export books produced by publishers with whom they have concluded agreements (examples are Distique and Diff-edit),
- export agents (*commissionnaires*) market, in other words sell and supply, books from all publishers. The service provided by the export agent begins with orders received from booksellers, schools or institutions abroad. The agent sorts orders for books published by different publishing houses. He does not keep a stock; he buys from French-language publishers or distributors. He then sorts the books by customer, and sends the customer the invoice and the books ordered.

According to SIDE, the advantage to the customer of using the services of an export agent is that the customer is spared the necessity of making separate orders in order to buy 20 books, say, from 15 publishers; this job is done by the agent. The customer saves time and money as a

result of such things as lower transport costs. Without export agents small orders would be too great a burden on publishers, who are unable to handle them properly owing to their rigid structures. Many publishers consequently require a minimum turnover before they will open an account. If the customer has not got an account with the publisher the publisher invoices the customer before supplying the goods ordered, which makes the handling of orders even more cumbersome and costly.

The export agent sends the order to the publisher after having assembled all the small orders, which enables the publisher to meet the order. The system means that customers residing abroad are not required to make one or several payments in advance, as they would be otherwise.

SIDE states that the clientele of export agents are comprised of booksellers, schools, and institutions such as university libraries, government departments and the like, who are final consumers of books. Export agents supply all types of book published in France and in print, including art books or technical publications, and also out-of-print books no longer available from publishers.

SIDE considers that it does business in the same sub-sector as CELF. The names of the export agents operating in France are listed below, with what SIDE considers to be their main business. They can be differentiated from each other by the type of customer they serve and by the types of book they sell.

- *Aux Amateurs de Livres International* supplies all books available from French publishers, and sells to university libraries,
- CELF exports French-language books, mainly to foreign booksellers,
- Eska and Lavoisier are primarily technical publishers who export scientific and technical works to institutions abroad, mainly university libraries,
- SFL is mainly a wholesaler for the region of Paris; unlike other export agents, it keeps its own stock,
- SIDE exports French books in print, and re-exports British books and distributes them in France. SIDE exports mainly to foreign booksellers,
- Touzot is a publisher specialised in exporting its own publications and out-of-print books,
- Van Ginneken specialises in art books. Van Ginneken exports only books available from certain art publishers. As an export agent it supplies institutions and booksellers abroad with books obtainable from the same publishers.

According to SIDE, the export market, that is to say the countries importing books from France, can be divided into French-speaking areas and non-French-speaking areas. The book trade in French-speaking areas resembles the domestic market. All major publishers have branches or representatives covering the local French-speaking markets in Belgium, Switzerland, Canada etc. The role of the export agent is very limited. But this is so only in Belgium, Switzerland and Canada. In other French-speaking countries export agents specialised in supplying institutions do have a significant role to play in the market.

In the French-speaking areas of Belgium, Switzerland and Canada, the operators on the market comprise (i) local distributors, (ii) local wholesalers, (iii) retailers (bookshops and self-service stores), (iv) institutions (libraries, schools and government departments), and (v) clubs, mail-order retailers and direct sales agents.

SIDE states that in countries which are not French-speaking the presence of publishers is limited. A major role is consequently played by export agents in general, and those supplying booksellers in particular.

According to the French Government, the export agency market represents only a marginal proportion of the main markets for French-language books⁽¹²⁾, namely France, Belgium, Switzerland and Canada, and exports from France outside these geographic markets amounted to FRF 1 506 514 000 in 1994, of which CELF had a share of about 3,25 %. If one takes account of the share of Belgian, Swiss and Canadian French-language books exported to countries other than France, Belgium, Switzerland or Canada, which amounts to about FRF 521 million, CELF's share falls to 2,47 %. Small orders of less than FRF 500 handled by CELF account for 0,074 % of total French-language book exports to countries other than France, Belgium, Switzerland and Canada.

However, the French Government doubts whether an export agency market for French-language books can be defined in anything more than purely theoretical terms.

In the first place, the product sold is not specific to export agents.

Secondly, even when the four main French-speaking countries are excluded, exports of French-language books to other countries are obviously not all handled by export

⁽¹²⁾ On these markets, almost all orders from booksellers are sufficiently large to be placed directly with publishers and conventional distributors.

agents. An appreciable proportion of orders from such countries are sufficiently large to be placed directly with conventional distributors, and do not involve export agents. This is clearly illustrated in a table submitted to the Commission which compares total French exports to the leading 50 importing countries with CELF's exports to those same countries ⁽¹³⁾.

The table is based on figures compiled by the *Syndicat National de l'Édition* for the year 1994. The French authorities have compiled a table showing the data alongside figures for the volume of exports by CELF to the same countries in the same year.

These figures show that although CELF is a major export agent the proportion of French-language book exports to any one country which it accounts for is at best only 20,7 %, in the case of Japan; its share usually varies between less than 1 % and 5 %. For example, it is 1,03 % in the case of Germany, 0,88 % in the case of the United States, and 2,73 % in the case of Mexico. Some foreign booksellers place orders sometimes direct with conventional distributors and sometimes with export agents, depending on the size of the order. Nor can the clientele be considered to constitute a specific market, except perhaps in the case of very small booksellers.

Lastly, operators acting as export agents, other than CELF, do not confine themselves to the business of supplying French-language books solely to foreign booksellers. Some, such as SIDE, usually supply institutional customers (*Alliance française* and libraries), others operate in France itself, and none of them are limited to exporting French-language books.

The French authorities believe, therefore, that it is not possible to compile data on an export agency market for French-language books in the strict sense. Even if one were to carry out an individual survey of all the operators who state that they carry on this business, it is unlikely that their cost accounting would always be sufficiently precise to pinpoint it.

The French authorities have been able to provide the Commission only with export turnover figures for operators established in France who are known to deal with the type of order normally placed with export agents. The French Government believes it is possible to use this

parameter to estimate the impact of the aid on CELF's competitors. The competitive impact on the activity of such operators must be assessed in terms of the whole of their export business, which forms a coherent whole centring, in different forms, on sales of books abroad.

Export turnover in 1995

(in FRF million)	
Export agents	Export turnover
Amateurs de Livres International	17,2
Boussac/LSA	16
CELF	55
Hexalivre/Van Ginneken	14,5
Lavoisier	3,6
Le Livre Français	17,7 ⁽¹⁾
Office du Livre	4,2
SIDE	26,8
SFL	9,3
Sous la Lampe	0
Touzot	20,2

⁽¹⁾ 1994 figure.

Sources: infogreffe/euridile.

France has a limited number of operators known to deal in export agency business (ten or so), but, with the exception of CELF, such operators handle few orders of less than FRF 500, which are not profitable economically, and, as indicated earlier, much of their business is with institutional customers ⁽¹⁴⁾.

For a more precise idea of CELF's competitors a proportion of exports by some French booksellers and some publishers' export departments must be included. This is because large booksellers specialising in the sale of French-language works and located in major European cities are for the most part supplied direct by French publishers or by booksellers in France.

⁽¹³⁾ The table covers the west European countries, North America, numerous African countries (in most of which French is spoken) and other countries around the world (such as Japan, Brazil, Mexico and Russia).

⁽¹⁴⁾ It sometimes happens, exceptionally, that CELF supplies customers who are not dealers, either because there is no local dealer, or for the account of publishers who pass on to CELF specific orders which they receive.

Taking account of these factors, the overall annual turnover of all those competing on the market may be estimated at some FRF 200 million. This estimate is based on a number of indices. CELF's share of the total amounts to about 25 %. The share of small orders handled by CELF accounts for 0,75 % of the total.

Looking at the Community in isolation, CELF's turnover amounts to some FRF 12 million, i.e. 24 % of its total turnover. Of the total turnover of French operators engaged in export agency business with the Community countries, those exports are estimated to account for some 55 %, i.e. around FRF 110 million. CELF's turnover within the Community is equivalent to only 10,9 % of the total turnover of such operators.

As regards the competitive situation, the following should be noted:

- the proportion of French-language works published outside France and benefiting from the support mechanism may be estimated at between 3 % and 4 %. The French Government emphasises that it is natural for booksellers situated abroad to turn as a rule to distributors and export agents in the publishing country rather than in some other country. However, it may be noted that in 1994 exports of French-language books from the main countries in which they are published were as follows: from France, FRF 2 978 million; from Belgium, some FRF 524 million; from Switzerland, some FRF 376 million; and from Canada, some FRF 315 million,
- it is not possible to determine the breakdown between the relative shares of French book exports handled by export agents and by publishers or their distributing subsidiaries, for the reasons set out earlier,
- in 1994 the proportion of total exports of books in French which went to French-speaking countries was 60,4 % (60,9 % in 1993). The proportion of exports by CELF which went to French-speaking countries was 16,1 % (13,6 % in 1993).

XI. ANALYSIS OF THE COMPATIBILITY OF THE AID UNDER ARTICLE 92 OF THE TREATY

Proportionality of the aid

The Commission has analysed the extensive material submitted to it by the French Government regarding the way in which the aid is used to cover the extra costs, giving special attention to the cost accounting system. The accounting system allows costs to be estimated and

apportioned between the various steps in the handling of an order (see section VI). The French Government has taken 1994 as the reference year for quantifying the extra costs. In order to verify the reliability of the analysis submitted by the French authorities, the Commission requested supplementary information on the handling of small orders by CELF for other periods too. The French Government submitted material for a number of other financial years showing that the level of turnover from small orders, the number of books ordered, the number of invoices, the number of customers and the number of items ordered remained more or less the same from year to year.

The information submitted by the French authorities to the Commission is therefore sufficient to allow an estimate to be made of the extra costs really incurred by CELF as a consequence of the handling of orders up to FRF 500. Since the aid covers only the additional costs related to such orders, with any excess being deducted from the aid for the following year, it does not serve to finance other commercial activities carried on by CELF, as was alleged by several interested parties.

Criteria governing the aid mechanism

SIDE alleges that the aid mechanism has been reserved exclusively to CELF, and questions the criteria according to which aid is granted. The Commission does not share SIDE's view of the matter, for the following reasons.

First of all, the refusal to allow SIDE access to the aid mechanism in 1991 was quite legitimate, since SIDE did not offer the transparency required, being unable to provide data on orders on a country-by-country basis. The authorities in the Member States are free to determine the criteria for the granting of aid aimed at a given objective, always provided that the aid is compatible with Article 92 of the Treaty. This is true especially of supervisory measures taken to ensure that the aid is genuinely used for the purpose for which it is granted, as is the case here.

Secondly, SIDE was offered the opportunity to benefit from the aid on the condition that it complied with the rules of the support mechanism.

Thirdly, two other operators have received aid similar to that given to CELF for the handling of small orders. The fact that the aided activities were confined to certain geographic areas and certain types of book is not the decisive point. What is more important is that they

complied with the rules of the support mechanism, in particular by providing transparent accounts. SIDE argues that the aid granted to Servedit and École des Loisirs is in no way comparable to that granted to CELF. While the aid given to these operators may have been limited to certain geographical areas or to specific types of printed matter, the Commission finds that it was designed to offset the additional costs involved in handling small orders, and consequently disagrees with SIDE.

The cultural nature of the aid mechanism

The statement that the aid is for the propagation of culture has been contested by some of the interested parties, including SIDE. As noted earlier, the Court accepted that the aid was of a cultural nature. The Commission takes the view that the only exemption clause under which the aid given to CELF for the handling of small orders can be authorised is that in Article 92(3)(d). This states that aid to promote culture and heritage conservation may be considered compatible with the common market where it does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest.

On the basis of the information supplied to it by the French authorities, the Commission concludes that the objective of the aid is indeed a cultural one. CELF supplies any book available in the French language. The Commission accepts the French Government's argument that the French language is being promoted here, since the support mechanism is specifically designed to enable customers abroad to obtain books published in French. Books published in other languages do not qualify, so that it is only the French language that is promoted. Secondly, small orders can be for specialised books or works of literature such as poetry, novels, essays and art books. Thus the nature of the books comprised in small orders also clearly shows the cultural dimension of the aid. It should be pointed out that text books for schools are ordered in large quantities for each school year, and therefore fall outside the support mechanism for small orders.

The aid in the Community context

CELF is indeed the main beneficiary of the aid, as noted above. However, the aid is granted only to offset the additional costs relating to its small order business. CELF handles books essentially for countries and areas which

are not French-speaking. In French-speaking countries such as Belgium, Switzerland and Canada, the major publishers serve the local market through their own branches or representatives. Export agents consequently play only a limited role on the main markets for French-language books, that is to say in the three countries just mentioned. Of total exports from France to these countries in 1994, CELF's share was only 0,2 %.

The Commission notes that there is no adverse effect on competition on the market as a result of the existence of CELF; books published by publishers who are members of CELF can be ordered through channels other than CELF, and in particular through other export agents. To be able to order books from CELF it is not necessary to be a member. CELF handles orders for books in the same way regardless of the publisher; it does not matter whether or not the publisher is a member of CELF. Booksellers are free to choose their supply channels. CELF deals with every order it receives.

The aid granted to CELF relates to a segment outside the conventional market, namely that of orders of less than FRF 500. The French authorities maintain that this FRF 500 threshold has been arrived at by reference to objective criteria. Only 2 % of CELF's turnover derives from books published in other Member States, specifically Belgium. The main effect that the support mechanism has in terms of competition is its effect on competition with other operators engaged in the distribution of French-language books. A customer will normally turn to a distributor established in the same country rather than elsewhere. In view of these considerations, and especially as the aid is proportionate and covers only the additional costs related to the handling of small orders by CELF, the impact of the aid is not contrary to the common interest.

Conclusion

The Commission accordingly draws the following conclusion regarding the aid granted to CELF for the handling of small orders.

The aid granted to CELF for the handling of small orders is compatible under Article 92(3)(d), because it pursues a cultural objective: it promotes culture and heritage conservation without affecting trading conditions and competition in the Community to an extent that is contrary to the common interest.

XII. APPLICATION OF ARTICLE 90(2) OF THE TREATY

The Commission has thus concluded that the aid to CELF constitutes State aid within the meaning of Article 92(1) of the Treaty, and that it is compatible with the common market under Article 92(3)(d). In accordance with the case-law, therefore⁽¹⁵⁾, there is no need for the Commission to consider CELF's State-aided activities in the light of Article 90(2), since the application of Article 92 does not obstruct the performance by CELF of the task of handling small orders, an activity for which it receives aid from the State.

The Commission would point out, nevertheless, that for an undertaking to be regarded as entrusted with the operation of a service of general economic interest within the meaning of Article 90(2), it must have been so entrusted by an act of public authority⁽¹⁶⁾. The act in question need not necessarily be a legislative measure or regulation; it may take the form of a concession governed by public law⁽¹⁷⁾.

According to the French authorities, the legal basis for the aid can be found in the Order (*arrêté*) of 9 May 1995 on the organisation of the Directorate for Books and Reading and the Orders (*décrets*) made under the Finance Acts to apportion the appropriations managed by the Ministry of Culture. Article 5 of the Order on the organisation of the Directorate for Books and Reading states that 'The Department for the Book Trade (*département de l'économie du livre*)... shall seek to stimulate the presence abroad of French-language books and of the French-speaking world'. The Commission considers that the French Government has failed to demonstrate that the service performed by CELF in handling small orders is based on any legal or administrative act, since the acts referred to are concerned with the book sector in general; they do not refer to CELF, and do not relate directly to it.

Moreover, it has to be said that the arguments submitted by the French authorities in support of the application of Article 90(2) are contradictory: they claim that the aid mechanism is open to other operators, and not exclusively reserved to CELF, while at the same time maintaining that the aid is being given to CELF because it performs a public service obligation of general economic interest.

⁽¹⁵⁾ Judgment of the Court of Justice in Case C-387/92 *Banco Exterior de España v. Ayuntamiento de Valencia* [1994] ECR I-877, paragraph 21.

⁽¹⁶⁾ Judgments of the Court of Justice in Case 127/73 *BRT v. SABAM and NV Fonior* [1974] ECR 313, paragraph 20, and in Case 66/86 *Ahmed Saeed Flugreisen and Others v. Zentrale zur Bekämpfung Unlauteren Wettbewerbs* [1989] ECR 803.

⁽¹⁷⁾ Judgment of the Court of Justice in Case C-159/94 *Commission v. France* [1997] ECR I-5815, paragraph 66.

XIII. OTHER ISSUES RAISED DURING THE ARTICLE 93(2) PROCEEDINGS

The French authorities point out that in the course of the Article 93(2) proceedings numerous questions or affirmations have been put forward which fall outside the scope of proceedings of that kind. The main objective of these proceedings has indeed been to establish whether the support mechanism under which CELF receives aid for the handling of small orders is compatible with the Treaty; but the Commission would observe that it did not rule out the possibility of examining other questions relating to CELF as well. When the Commission decided to initiate the inquiry proceedings, it made reference to several issues brought to its attention by SIDE regarding CELF and its operations⁽¹⁸⁾. As these are not linked directly to the support mechanism as such, they and other related issues raised by interested parties are considered separately below.

In 1980 CELF was recapitalised: its capital was increased from FRF 80 500 to FRF 1 280 500. Half the cost of the operation was borne by the Association pour le Développement de l'Édition Française ('ADEF'), and half by CELF's shareholders, which were private undertakings. ADEF was an association set up by a number of publishers; its main objective was to stimulate the presence of French-language books abroad and to support investments carried out by publishers or exporters. It received public assistance from the Ministry of Culture. ADEF was dissolved in 1994, and its shares in CELF were transferred to Syndicat National de l'Édition (SNE). SNE is entitled to transfer them to new members of CELF if the occasion arises. The members of CELF have remained the same: publishers, distributors and SNE. The Commission has analysed the material submitted to it by the French Government, and concludes that the increase in CELF's capital did not constitute State aid, but merely the acquisition of a shareholding, since private investors also took part. The French authorities were consequently acting in accordance with the market economy investor principle. The transaction did not, therefore, comprise any state aid component within the scope of Article 92(1) of the Treaty.

It has been alleged that CELF derives an advantage from administering public programmes; at present CELF is responsible only for the 'Plus' programme and for the 'À l'Est de l'Europe' programme, successor to the 'Page à Page' programme. In its judgment in *SIDE v. Commission* the Court upheld the Commission's initial approval of the aid CELF received for the administration

⁽¹⁸⁾ See footnote 2, at point 9.

of these programmes, on the ground that it was outside the scope of Article 92(1) of the Treaty, and the Commission sees no reason to address this issue further.

It has also been alleged that CELF derives an advantage from its relationship with public bodies such as France Édition. Hexalivre, for instance, criticises the attitude of France Édition, which it claims gives preferential treatment to CELF, in particular by granting it access to its stand at international fairs, while refusing such access to Hexalivre. The Commission observes that CELF, which is a member of France Édition, pays for such services, for example by renting space at the stand, as shown by the supporting documents supplied. CELF has also paid for catalogues ordered from France Édition.

In response to these allegations regarding CELF's relations with France Édition and Centrale de l'Édition, and its commercial relations with publishers, the French Government argues that the public authorities are not involved: these are bilateral relationships that have no connection with any cultural policy measures taken by the authorities. The Commission concludes that CELF has not here received benefits in kind within the scope of Article 92(1), because it has paid for the services provided to it by France Édition.

It has also been alleged that the public authorities favour CELF through public orders. These allegations relate in particular to support given for the implementation of a programme known as '*nouveautés*', which was administered by the Ministry of Foreign Affairs, and to orders placed by associations connected with that Ministry and with the Ministry of Cooperation, such as the Association pour le Développement de la Pensée Française ('the ADPF') and Audecam. The main objective of the ADPF is to ensure a regular supply to the libraries of the French cultural institutes situated abroad on behalf of the Ministry. CELF is one distributor among others used by the ADPF.

Hexalivre criticises the ADPF for giving preferential treatment to CELF as compared with its competitors. Hexalivre cites the example of an order placed by the cultural department of the French Embassy in Morocco, traditionally a customer of Hexalivre, which, after approaching the

ADPF, was referred to CELF, which in turn passed the order to Hexalivre. The Commission is satisfied that the French authorities in no way sought to favour CELF to the detriment of other suppliers. On the contrary, since CELF passed on the order to Hexalivre, the latter cannot claim to have lost it. The Commission, therefore, takes the view that this falls outside the scope of Article 92(1) of the Treaty.

Finally, SIDE has criticised 'the whole complex of aid granted not only to CELF, but also to various bodies which, like it, group together publishers and the public authorities in a highly opaque manner', and the authorities' cultural policy in general; the French Government replies that the authorities publish numerous documents every year, including answers to parliamentary questions, informing the public of the activities of the responsible Ministry. Thus the authorities seek transparency rather than opacity,

HAS ADOPTED THIS DECISION:

Article 1

The aid granted to CELF for the handling of small orders of books in the French language constitutes aid within the meaning of Article 92(1) of the EC Treaty. As the French Government failed to notify the aid to the Commission prior to its implementation, the aid has been granted unlawfully. It is, however, compatible aid as it satisfies the conditions for derogation under Article 92(3)(d) of the Treaty.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 10 June 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 27 January 1999

amending Decision 94/652/EC establishing the inventory and distribution of tasks to be undertaken within the framework of cooperation by Member States in the scientific examination of questions relating to food

(notified under document number C(1999) 138)

(Text with EEA relevance)

(1999/134/EC)

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

Having regard to Council Directive 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food ⁽¹⁾, and in particular Article 3 thereof,

Whereas Commission Decision 94/458/EC ⁽²⁾ has laid down rules on the administrative management of cooperation in the scientific examination of questions relating to food;

Whereas Commission Decision 94/652/EC ⁽³⁾ has established the inventory and distribution of tasks to be undertaken within the framework of cooperation by Member States in the scientific examination of questions relating to food; whereas Article 3 of Directive 93/5/EEC provides for the updating at least every six months of the inventory and distribution of tasks;

Whereas the inventory of tasks should be established and updated having regard to the need for the protection of public health within the Community and the requirements of Community legislation in the foodstuffs sector;

Whereas the tasks should be distributed having regard to the scientific expertise and resources available within the

Member States and in particular, within the institutes which will be participating in the scientific cooperation;

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

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 94/652/EC establishing the inventory and distribution of tasks to be undertaken within the framework of cooperation by Member States in the scientific examination of questions relating to food is hereby replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 27 January 1999.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ L 52, 4. 3. 1993, p. 18.

⁽²⁾ OJ L 189, 23. 7. 1994, p. 84.

⁽³⁾ OJ L 253, 29. 9. 1994, p. 29.

ANNEX

**Inventory of tasks to be undertaken by Member States within the framework of cooperation by the
Member States in the scientific examination of questions relating to food**

Subject, nature and extent of the task	Member States to which the task is distributed	Time limit for completion
1. Flavouring substances 1.1. <i>Chemically defined flavouring substances</i> — To prepare reports for the safety evaluation of chemically defined flavouring substances — To establish and maintain a physical and electronic archive of the available toxicological and exposure data for the substances concerned	Denmark (coordinator) Germany, Spain, France, Ireland, Italy, Netherlands, Sweden, United Kingdom	31 December 2000
2. Microbiology 2.3. <i>Microbiological risk assessment</i> Collection from participating Member States of information on methodology and data to underpin a process for microbiological risk assessment at the European level	France (coordinator) Belgium, Denmark, Germany, Spain, Ireland, Italy, Netherlands, Austria, Portugal, Finland, Sweden, United Kingdom ⁽¹⁾	31 March 1999
3. Contaminants 3.1. <i>General questions</i> 3.1.1. <i>Unscheduled and urgent questions</i> To coordinate the collection of data in the Member States required for risk assessment by the Scientific Committee for Food in response to unscheduled and urgent questions related to food contaminants 3.2. <i>Specific questions</i> 3.2.5. Preparation of a working document in support of a EU risk evaluation on dioxins and related PCBs as food contaminants, covering the estimated dietary intakes in individual Member States 3.2.6. Provision of validated methods to support the SCF recommendations regarding 3-monochloropropanediol (3-MCPD) in hydrolysed vegetable protein (HVP) and other foods 3.2.7. Assessment of dietary intake of ochratoxin A by the population of EU Member States	Italy, United Kingdom (joint coordinators) All the Member States ⁽¹⁾ Netherlands, Sweden (joint coordinators) Belgium, Denmark, France, Italy, Finland, United Kingdom ⁽¹⁾ United Kingdom (coordinator) Denmark, Germany, Greece, Spain, Italy, Austria ⁽¹⁾ Denmark, Italy (joint coordinators) Germany, Spain, France, Ireland, Netherlands, Portugal, Finland, Sweden, United Kingdom ⁽¹⁾	31 December 1999 31 December 1999 30 June 2000 31 December 1999

Subject, nature and extent of the task	Member States to which the task is distributed	Time limit for completion
7. Nutrition, allergies and health 7.3. Collection of data on products intended for use in very low calorie diets 7.4. Study of the enzymes used in foodstuffs and collation of data on their safety	Netherlands (coordinator) Belgium, Denmark, Germany, France, Ireland, Italy, Portugal, Finland, Sweden, United Kingdom ⁽¹⁾ France (coordinator) Denmark, Germany, Greece, Spain, Italy, Netherlands, Portugal, Finland, United Kingdom	31 December 1999 30 September 1999
8. Packaging materials 8.1. Preparation of summary data sheets or reports for the risk assessment of the substances used for or present in food contact materials	Netherlands (coordinator) Denmark, Germany, France, Italy, Finland, Sweden, United Kingdom ⁽¹⁾	31 December 2002
9. Official food control 9.1. Preparation of a working document in support of the uniform interpretation of legislative standards and the laboratory quality standards prescribed under Directive 93/99/EEC	United Kingdom (coordinator) Denmark, Germany, Greece, Spain, France, Italy, Netherlands, Austria, Portugal, Finland, Sweden ⁽¹⁾	31 December 2000

⁽¹⁾ Norway participates in this task.

COMMISSION DECISION

of 28 January 1999

**amending Decision 98/570/EC laying down special conditions governing imports
of fishery and aquaculture products originating in Tunisia***(notified under document number C(1999) 155)*

(Text with EEA relevance)

(1999/135/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products ⁽¹⁾, as last amended by Council Directive 97/79/EC ⁽²⁾, and in particular Article 11 thereof,Whereas Commission Decision 98/570/EC of 7 October 1998 ⁽³⁾ lays down special conditions governing imports of fishery and aquaculture products originating in Tunisia, and in particular the model for the health certificate which must accompany those products;Whereas Commission Decision 98/569/EC of 6 October 1998 ⁽⁴⁾ lays down special conditions governing imports of live bivalve molluscs, echinoderms, tunicates and marine gastropods;

Whereas the model certificate annexed to Decision 98/570/EC should therefore be amended to take account of imports of frozen or processed bivalve molluscs, echino-

derms, tunicates and marine gastropods originating in Tunisia;

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

HAS ADOPTED THIS DECISION:

Article 1

Annex A to Decision 98/570/EC is replaced by the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 January 1999.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ L 268, 24. 9. 1991, p. 15.⁽²⁾ OJ L 24, 30. 1. 1998, p. 31.⁽³⁾ OJ L 277, 14. 10. 1998, p. 36.⁽⁴⁾ OJ L 277, 14. 10. 1998, p. 31.

ANNEX

ANNEX A

HEALTH CERTIFICATE

for fishery and aquaculture products originating in Tunisia and intended for export to the European Community

Reference No:

Country of dispatch: TUNISIA

Competent authority: Direction générale de la santé animale (DGSA) du ministère de l'agriculture

I. Details identifying the fishery products

— Description of fishery/aquaculture products ⁽¹⁾:

— species (scientific name):

— presentation of product and type of treatment ⁽²⁾:

— Code number (where available):

— Type of packaging:

— Number of packages:

— Net weight:

— Requisite storage and transport temperature:

II. Origin of products

Name(s) and official approval number(s) of establishment(s), factory vessel(s) or cold store(s) approved or freezer vessel(s) registered by the DGSA for export to the European Community:

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

III. Destination of products

The products are dispatched

from:
(place of dispatch)

to:
(country and place of destination)

by the following means of transport:

Name and address of dispatcher:

.....
.....

Name of consignee and address at place of destination:

.....
.....

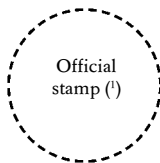
⁽¹⁾ Delete where applicable.

⁽²⁾ Live, refrigerated, frozen, salted, smoked, preserved, etc.

IV. Health attestation

- The official inspector hereby certifies that the fishery or aquaculture products specified above:
1. were caught, and handled on board vessels in accordance with the health rules laid down by Directive 92/48/EEC;
 2. were landed, handled and where appropriate packaged, prepared, processed, frozen, thawed and stored hygienically in compliance with the requirements laid down in Chapters II, III and IV of the Annex to Directive 91/493/EEC;
 3. have undergone health controls in accordance with Chapter V of the Annex to Directive 91/493/EEC;
 4. are packaged, marked, stored and transported in accordance with Chapters VI, VII and VIII of the Annex to Directive 91/493/EEC;
 5. do not come from toxic species or species containing biotoxins;
 6. have satisfactorily undergone the organoleptic, parasitological, chemical and microbiological checks laid down for certain categories of fishery products by Directive 91/493/EEC and in the implementing decisions thereto;
 7. in addition, in the case of frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods, have been obtained from authorised production areas listed in the Annex to Decision 98/569/EC.
- The undersigned official inspector hereby declares that he is aware of the provisions of Directive 91/493/EEC, Directive 92/48/EEC and Decision 98/570/EC.

Done at (Place), on (Date)



.....
Signature of official inspector (1)

.....
(Name in capital letters, capacity and qualifications of person signing)

(1) The colour of the stamp and signature must be different from that of the other particulars in the certificate.

COMMISSION DECISION

of 28 January 1999

**amending Decision 97/296/EC drawing up the list of third countries from which
the import of fishery products is authorised for human consumption***(notified under document number C(1999) 156)*

(Text with EEA relevance)

(1999/136/EC)

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

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs⁽¹⁾, as last amended by Decision 98/603/EC⁽²⁾, and in particular Article 2(2) and Article 7 thereof,

Whereas Commission Decision 97/296/EC of 22 April 1997⁽³⁾, as amended by Decision 98/711/EC⁽⁴⁾, lists the countries and territories from which importation of fishery products for human consumption is authorised. Part I of Annex I lists the names of the countries and territories covered by a specific Decision and part II names those qualifying under Article 2(2) of Decision 95/408/EC;

Whereas Annex II lists the names of the countries and territories from which importation of fishery products is authorised until the 31 January 1999, on the conditions of the Article 11(7) of Council Directive 91/493/EC⁽⁵⁾;

Whereas Algeria, Angola, Azerbaijan, Bahamas, Eritrea, Iran, Kenya, Mozambique, Myanmar, Netherlands Antilles, Romania, Saint Helena, Solomon Island, Sri Lanka, Zimbabwe, Cyprus, Antigua and Barbuda and Saint Vincent and Grenadines have provided information that they satisfy the equivalent conditions referred to in Article 2(2) of Decision 95/408/EC; whereas it is therefore

necessary to modify the list to include those countries in part II of the list of Annex I;

Whereas, for those countries and territories not yet included in the Annexes of this Decision, it will be necessary to evaluate by the Commission that they applied to their export of fishery products to the Community, conditions at least equivalent to those governing the production and placing on the market of Community products;

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

HAS ADOPTED THIS DECISION:

Article 1

The Annex of the present Decision replaces the Annexes I and II to Decision 97/296/EC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 January 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 243, 11. 10. 1995, p. 17.

⁽²⁾ OJ L 289, 28. 10. 1998, p. 36.

⁽³⁾ OJ L 122, 14. 5. 1997, p. 21.

⁽⁴⁾ OJ L 337, 12. 12. 1998, p. 58.

⁽⁵⁾ OJ L 268, 24. 9. 1991, p. 15.

ANNEX

ANNEX I

List of countries and territories from which importation of fishery products in any form intended for human consumption is authorised*I. Countries and territories covered by a specific decision under Council Directive 91/493/EC*

AL — Albania	GH — Ghana	NZ — New Zealand
AR — Argentina	GM — Gambia	PE — Peru
AU — Australia	GT — Guatemala	PH — Philippines
BD — Bangladesh	IN — India	RU — Russia
BR — Brazil	ID — Indonesia	SN — Senegal
CA — Canada	JP — Japan	SG — Singapore
CI — Côte d'Ivoire	KR — South Korea	TH — Thailand
CL — Chile	MA — Morocco	TN — Tunisia
CO — Colombia	MG — Madagascar	TW — Taiwan
CU — Cuba	MR — Mauritania	TZ — Tanzania
EC — Ecuador	MY — Malaysia	UY — Uruguay
EE — Estonia	MV — Maldives	ZA — South Africa
FK — Falkland Islands	MX — Mexico	
FO — Faroes	NG — Nigeria	

II. Countries and territories meeting the terms of Article 2(2) of Council Decision 95/408/EC

AO — Angola	HK — Hong Kong	PG — Papua New Guinea
AG — Antigua and Barbuda ⁽¹⁾	HN — Honduras	PK — Pakistan
AN — Netherlands Antilles	HR — Croatia	PL — Poland
AZ — Azerbaijan ⁽²⁾	HU — Hungary ⁽³⁾	RO — Romania
BJ — Benin	IL — Israel	SB — Solomon Island
BS — Bahamas	IR — Iran	SC — Seychelles
BZ — Belize	JM — Jamaica	SH — St Helena
CH — Switzerland	KE — Kenya	SI — Slovenia
CM — Cameroun	KZ — Kazakhstan ⁽²⁾	SR — Suriname
CN — China	LK — Sri Lanka	TG — Togo
CR — Costa Rica	LT — Lithuania	TR — Turkey
CV — Cape Verde	LV — Latvia	UG — Uganda
CY — Cyprus	MM — Myanmar	US — United States of America
CZ — Czech Republic	MT — Malta	VC — St Vincent and Grenadines ⁽¹⁾
DZ — Algeria	MU — Mauritius	VE — Venezuela
ER — Eritrea	MZ — Mozambique	VN — Vietnam
FJ — Fiji	NA — Namibia	ZW — Zimbabwe
GL — Greenland	NI — Nicaragua	
GN — Guinea Conakri	PA — Panama	

⁽¹⁾ Authorised only for imports of fresh fish.⁽²⁾ Authorised only for imports of caviar.⁽³⁾ Authorised only for import of live animals intended for human consumption.

ANNEX II

List of countries and territories from which importation of fishery products intended for human consumption is authorized until the 31 January 1999, on the conditions of the Article 11(7) of Directive 91/493/EEC

BG — Bulgaria
CG — Congo Brazzaville
EG — Egypt
MK — Former Yugoslav Republic of Macedonia
GA — Gabon
GW — Guinea Bissau
LC — Saint Lucia'

COMMISSION DECISION

of 3 February 1999

authorising the Member States to permit temporarily the marketing of vine propagating material not satisfying the requirements of Council Directive 68/193/EEC

(notified under document number C(1999) 266)

(1999/137/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 14 thereof,

Having regard to the request submitted by Austria,

Whereas in the Community, in particular in Austria the production of certain vine propagating materials satisfying the requirements of Directive 68/193/EEC, has been insufficient in 1997 and is therefore not adequate to meet that country's needs;

Whereas it is not possible to cover this demand satisfactorily with material satisfying all the requirements laid down in the said Directive;

Whereas Austria should therefore be authorised to permit the marketing, for a period expiring on 15 February 1999, of material of a category to which less stringent requirements apply;

Whereas other Member States likely to supply Austria with such material should furthermore be authorised to permit its marketing to this end;

Whereas in Austria the propagating material will be imported in the forms of rootstock cuttings to be used for grafting; whereas, according to the request, the rooted grafts produced in the Community from such propagating material are then intended to be marketed in the Community;

Whereas this authorisation may only be used in accordance with the plant health conditions and requirements laid down by Council Directive 77/93/EEC ⁽²⁾, as last

amended by Commission Directive 98/2/EC ⁽³⁾, and in any implementing measures thereof;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

1. Austria is authorised to permit, for a period expiring on 15 February 1999 the marketing on its territory of a maximum of 1 250 000 rootstock cuttings for grafting, which have been harvested in Hungary or Romania and which do not satisfy the requirements laid down in Directive 68/193/EEC as regards certification and inspection of standard propagation material, provided that the official label is brown and bears the words 'less stringent requirements'.

2. Austria is authorised to permit the marketing in its territory of rooted grafts produced in the Community from the above mentioned rootstock cuttings for grafting, provided that the official label is brown and bears the words 'less stringent requirements'.

Article 2

Member States other than the applicant Member State are also authorised to permit, on the terms set out in Article 1 and for the purposes intended by the applicant Member State, the marketing in their territories of the material authorised to be marketed under this Decision.

Article 3

The authorisation under Article 1 shall be without prejudice to Directive 77/93/EEC and any implementing measures thereof.

⁽¹⁾ OJ L 93, 17. 4. 1968, p. 15.

⁽²⁾ OJ L 26, 31. 1. 1977, p. 20.

⁽³⁾ OJ L 15, 21. 1. 1998, p. 34.

Article 4

Member States shall immediately notify the Commission and the other Member States of the quantities of propagating material permitted to be marketed in their territories under this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 3 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission
