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(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL DECISION
of 22 February 1999
repealing Common Position 98/448/CFSP concerning Belarus
(1999/156/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty on European Union, and in particular Article J.2 thereof,

- (1) Whereas on 9 July 1998 the Council defined Common Position 98/448/CFSP⁽¹⁾ imposing a visa ban against members of the Government of Belarus following certain measures taken by that Government affecting the residences of ambassadors from several Member States of the European Union at the Drozdy diplomatic compound in Minsk;
- (2) Whereas on 25 January 1999 the Council concluded that these visa restrictions could be lifted if the Government of Belarus respected the agreement reached on Drozdy on 10 December 1998;
- (3) Whereas the Council, while reaffirming its interest in a continued constructive dialogue with Belarus, is satisfied that the Government of Belarus has so far fulfilled the terms of that agreement;
- (4) Whereas the Council intends to monitor closely the development of this situation in Belarus and to review this decision if necessary,

Article 1

1. Common Position 98/448/CFSP is hereby repealed.
2. The development of the situation concerning the residences of ambassadors from several Member States of the European Union at the Drozdy diplomatic compound in Minsk will be monitored by the Council, to which the Presidency and the Commission shall regularly report. Should there be any deterioration in this situation, the Council shall immediately review this Decision.

Article 2

This Decision shall take effect on the day of its adoption.

Article 3

This Decision shall be published in the Official Journal.

Done at Luxembourg, 22 February 1999.

For the Council

The President

H.-F. von PLOETZ

⁽¹⁾ OJ L 195, 11. 7. 1998, p. 1.

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 423/1999
of 22 February 1999
amending Regulation (EC) No 975/98 on denominations and technical specifications of euro coins intended for circulation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 105a(2) thereof,

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

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽³⁾,

Whereas Article 1 of Regulation (EC) No 975/98 ⁽⁴⁾ sets out the technical specifications of the eight denominations included in the first series of euro coins; whereas the mint directors have drawn up, on the basis of that Regulation, the more detailed specifications necessary for production;

Whereas the vending industry, having examined those detailed specifications, has requested an increase of the weight of the 50 cent coin in order to ensure clearer differentiation of that coin and reduce risks of fraud; whereas the European Blind Union, having tested samples from the first production runs, has complained about the edge milling of the 50 cent and 10 cent coins which did not match the milling of the samples agreed by it during the consultation process preceding the adoption of Regulation (EC) No 975/98; whereas, in order to ensure the acceptance of the new system by the users, it seems desirable to accede to the requests expressed both by the vending industry and the European Blind Union; whereas in order to satisfy the vending industry's requirements, it

is necessary to increase the weight of the 50 cent coin from 7 g to 7,8 g; whereas in order to satisfy the European Blind Union's requirements and avoid any risk of misinterpretation in the future, it is desirable to modify the specification for the edge of the 50 cent and 10 cent coins from 'coarse milling' to 'shaped edge with fine scallops' which better reflects the shape of the edge originally agreed by the European Blind Union for those two coins;

Whereas it is essential that the modifications of the technical specifications be confined to the weight of the 50 cent coin and the edge of the 10 cent and 50 cent coins in order not to compromise the production timetable and the introduction of the euro coins on 1 January 2002,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EC) No 975/98, the table shall be amended as follows:

- (1) The fourth row relating to the 50 cent coin shall be amended as follows:
 - (a) in the third column, the figure '1,69' shall be replaced by '1,88';
 - (b) in the fourth column, the figure '7' shall be replaced by '7,8';
 - (c) in the eighth column, the words 'coarse milled' shall be replaced by 'shaped edge with fine scallops'.
- (2) In the sixth row relating to the 10 cent coin, in the eighth column, the words 'coarse milled' shall be replaced by 'shaped edge with fine scallops'.

⁽¹⁾ OJ C 296, 24. 9. 1998, p. 10.

⁽²⁾ Opinion delivered on 16 November 1998 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 18 November 1998 (OJ C 379, 7. 12. 1998), Council Common Position of 21 December 1998 (not yet published in the Official Journal) and Decision of the European Parliament of 9 February 1999 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 139, 11. 5. 1998, p. 6.

Article 2

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Article 109k(1) and Protocols 11 and 12.

Done at Luxembourg, 22 February 1999.

For the Council

The President

H.-F. von PLOETZ

COMMISSION REGULATION (EC) No 424/1999
of 26 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 27 February 1999.

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

Done at Brussels, 26 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 26 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	90,4
	204	50,1
	212	103,1
	999	81,2
0707 00 05	068	120,6
	999	120,6
0709 10 00	220	297,7
	999	297,7
0709 90 70	052	117,8
	204	176,4
	999	147,1
0805 10 10, 0805 10 30, 0805 10 50	052	71,4
	204	38,8
	212	42,6
	600	53,5
	624	53,7
	999	52,0
0805 20 10	204	97,2
	999	97,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	54,9
	204	71,1
	464	76,8
	600	89,4
	624	68,7
	999	72,2
0805 30 10	052	48,4
	600	55,6
	999	52,0
0808 10 20, 0808 10 50, 0808 10 90	060	31,3
	388	135,9
	400	83,4
	404	87,3
	508	59,4
	512	108,7
	528	106,0
	706	107,2
	720	111,6
	728	67,1
	999	89,8
0808 20 50	388	84,8
	400	80,2
	512	81,2
	528	70,6
	624	61,2
	999	75,6

⁽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 425/1999
of 26 February 1999
fixing the import duties in the cereals sector

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

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2519/98⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas Article 10 of Regulation (EEC) No 1766/92 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question; however, that duty may not exceed the rate of duty in the Common Customs Tariff;

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

Whereas Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing;

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

Whereas application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 March 1999.

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 315, 25. 11. 1998, p. 7.

ANNEX I

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

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	55,72	45,72
	medium quality ⁽¹⁾	65,72	55,72
1001 90 91	Common wheat seed	53,82	43,82
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	53,82	43,82
	medium quality	87,59	77,59
	low quality	107,63	97,63
1002 00 00	Rye	95,20	85,20
1003 00 10	Barley, seed	95,20	85,20
1003 00 90	Barley, other ⁽²⁾	95,20	85,20
1005 10 90	Maize seed other than hybrid	103,94	93,94
1005 90 00	Maize other than seed ⁽³⁾	103,94	93,94
1007 00 90	Grain sorghum other than hybrids for sowing	95,20	85,20

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 14 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 16 February 1999 to 25 February 1999)

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

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/tonne)	109,29	93,50	82,96	75,42	135,29 (**)	125,29 (**)	95,81 (**)
Gulf premium (EUR/tonne)	27,90	9,92	0,42	11,65	—	—	—
Great Lakes premium (EUR/tonne)	—	—	—	—	—	—	—

(*) A discount of EUR 10 per tonne (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: EUR 11,48 per tonne; Great Lakes — Rotterdam: EUR 22,29 per tonne.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: EUR 0,00 per tonne (HRW2)
EUR 0,00 per tonne (SRW2).

COMMISSION REGULATION (EC) No 426/1999

of 26 February 1999

determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Community,

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

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⁾,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,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;

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 25,696/100 kg.

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;

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 58,494/100 kg in Spain,
- EUR 48,289/100 kg in Greece,
- EUR 80,604/100 kg in other Member States.

Article 2

This Regulation shall enter into force on 1 March 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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 427/1999
of 26 February 1999
altering the export refunds on white sugar and raw sugar exported in the natural state

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 349/1999⁽³⁾, as amended by Regulation (EC) No 400/1999⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 349/1999 to the information known to the Commission that the export refunds

at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 349/1999 are hereby altered to the amounts shown in the Annex hereto.

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, 26 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 44, 18. 2. 1999, p. 6.

⁽⁴⁾ OJ L 49, 25. 2. 1999, p. 18.

ANNEX

to the Commission Regulation of 26 February 1999 altering 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	43,39 ⁽¹⁾
1701 11 90 9910	43,04 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	43,39 ⁽¹⁾
1701 12 90 9910	43,04 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4717
	— EUR/100 kg —
1701 99 10 9100	47,17
1701 99 10 9910	47,17
1701 99 10 9950	47,17
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4717

⁽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 428/1999**of 26 February 1999****fixing the export refunds on syrups and certain other sugar products exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1148/98 ⁽²⁾, and in particular Article 17 (5) thereof,

Whereas Article 17 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) (d) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 3 of 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 ⁽³⁾, provides that the export refund on 100 kilograms of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; whereas the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95;

Whereas Article 17 (6) of Regulation (EEC) No 1785/81 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one-hundredth of the production refund applicable, pursuant to Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on sugar used in the chemical industry ⁽⁴⁾, last amended by Commission Regulation (EC) No 1148/98 ⁽⁵⁾, to the products listed in the Annex to the last mentioned Regulation;

Whereas the basic amount of the refund on the other products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 exported in the natural state must be equal to

one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements;

Whereas the application of the basic amount may be limited to some of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81;

Whereas Article 17 of Regulation (EEC) No 1785/81 makes provision for setting refunds for export in the natural state of products referred to in Article 1 (1) (f) and (g) and (h) of that Regulation; whereas the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1 (1) (d) of Regulation (EEC) No 1785/81 and of the economic aspects of the intended exports; whereas, in the case of the products referred to in the said Article 1 (1) (f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; whereas, for the products referred to in Article 1 (1) (h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95;

Whereas the refunds referred to above must be fixed every month; whereas they may be altered in the intervening period;

Whereas application of these quotas results in fixing refunds for the products in question at the levels given 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,

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 214, 8. 9. 1995, p. 16.

⁽⁴⁾ OJ L 94, 9. 4. 1986, p. 9.

⁽⁵⁾ OJ L 159, 3. 6. 1998, p. 38.

HAS ADOPTED THIS REGULATION:

exported in the natural state, shall be set out in the Annex hereto.

Article 1

The export refunds on the products listed in Article 1 (1) (d), (f), (g) and (h) of Regulation (EEC) No 1785/81,

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, 26 February 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

ANNEX

to the Commission Regulation of 26 February 1999 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— EUR/100 kg dry matter —
1702 40 10 9100	47,17 ⁽²⁾
1702 60 10 9000	47,17 ⁽²⁾
1702 60 80 9100	89,62 ⁽⁴⁾
	— EUR/1 % sucrose × 100 kg —
1702 60 95 9000	0,4717 ⁽¹⁾
	— EUR/100 kg dry matter —
1702 90 30 9000	47,17 ⁽²⁾
	— EUR/1 % sucrose × 100 kg —
1702 90 60 9000	0,4717 ⁽¹⁾
1702 90 71 9000	0,4717 ⁽¹⁾
1702 90 99 9900	0,4717 ⁽¹⁾ ⁽³⁾
	— EUR/100 kg dry matter —
2106 90 30 9000	47,17 ⁽²⁾
	— EUR/1 % sucrose × 100 kg —
2106 90 59 9000	0,4717 ⁽¹⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

⁽⁴⁾ Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EC) No 429/1999

of 26 February 1999

fixing the refunds applicable to cereal and rice sector products supplied as
Community and national food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 2547/98⁽²⁾, and in particular the third subparagraph of Article 13(2) thereof,Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice⁽³⁾, as amended by Regulation (EC) No 2072/98⁽⁴⁾, and in particular Article 13(3) thereof,Whereas Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid⁽⁵⁾ lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section;

Whereas, in order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national

food aid actions, the level of the refunds granted for these actions should be determined;

Whereas the general and implementing rules provided for in Article 13 of Regulation (EEC) No 1766/92 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the above-mentioned operations;

Whereas the specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95;

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

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.⁽³⁾ OJ L 329, 30. 12. 1995, p. 18.⁽⁴⁾ OJ L 265, 30. 9. 1998, p. 4.⁽⁵⁾ OJ L 288, 25. 10. 1974, p. 1.

ANNEX

to the Commission Regulation of 26 February 1999 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/tonne)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	38,00
1002 00 00 9000	74,00
1003 00 90 9000	51,00
1004 00 00 9400	61,00
1005 90 00 9000	49,00
1006 30 92 9100	142,00
1006 30 92 9900	142,00
1006 30 94 9100	142,00
1006 30 94 9900	142,00
1006 30 96 9100	142,00
1006 30 96 9900	142,00
1006 30 98 9100	142,00
1006 30 98 9900	142,00
1006 30 65 9900	142,00
1006 40 00 9000	—
1007 00 90 9000	49,00
1101 00 15 9100	52,00
1101 00 15 9130	52,00
1102 20 10 9200	70,01
1102 20 10 9400	60,01
1102 30 00 9000	—
1102 90 10 9100	66,86
1103 11 10 9200	30,00
1103 11 90 9200	30,00
1103 13 10 9100	90,02
1103 14 00 9000	—
1104 12 90 9100	109,24
1104 21 50 9100	89,14

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1), amended.

COMMISSION REGULATION (EC) No 430/1999**of 26 February 1999****amending Regulation (EEC) No 391/92 setting the amounts of aid for the supply of cereals products from the Community to 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 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments ⁽¹⁾, as last amended by Regulation (EC) No 2598/95 ⁽²⁾, and in particular Article 2 (6) thereof,

Whereas the amounts of aid for the supply of cereals products to the French overseas departments (FOD) has been settled by Commission Regulation (EEC) No 391/92 ⁽³⁾, as last amended by Regulation (EC) No 224/1999 ⁽⁴⁾; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community and on the world market, the aid for

supply to the FOD should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex of amended Regulation (EEC) No 391/92 is replaced by the Annex to the present Regulation.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ L 267, 9. 11. 1995, p. 1.

⁽³⁾ OJ L 43, 19. 2. 1992, p. 23.

⁽⁴⁾ OJ L 23, 30. 1. 1999, p. 28.

ANNEX

to the Commission Regulation of 26 February 1999 amending Regulation (EEC) No 391/92 setting the amounts of aid for the supply of cereals products from the Community to the French overseas departments

(EUR/tonne)

Product (CN code)	Amount of aid			
	Destination			
	Guadeloupe	Martinique	French Guiana	Réunion
Common wheat (1001 90 99)	44,00	44,00	44,00	47,00
Barley (1003 00 90)	57,00	57,00	57,00	60,00
Maize (1005 90 00)	55,00	55,00	55,00	58,00
Durum wheat (1001 10 00)	12,00	12,00	12,00	16,00

COMMISSION REGULATION (EC) No 431/1999
of 26 February 1999
amending Regulation (EEC) No 1832/92 setting the amounts of aid for the supply
of cereals products from the Community to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands ⁽¹⁾, as last amended by Regulation (EC) No 2348/96 ⁽²⁾, and in particular Article 3 (4) thereof,

Whereas the amounts of aid for the supply of cereals products to the Canary Islands has been settled by Commission Regulation (EEC) No 1832/92 ⁽³⁾, as last amended by Regulation (EC) No 225/1999 ⁽⁴⁾; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community

and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex of amended Regulation (EEC) No 1832/92 is replaced by the Annex to the present Regulation.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 185, 4. 7. 1992, p. 26.

⁽⁴⁾ OJ L 23, 30. 1. 1999, p. 30.

ANNEX

to the Commission Regulation of 26 February 1999 amending Regulation (EEC)
No 1832/92 setting the amounts of aid for the supply of cereals products from the
Community to the Canary Islands

(EUR/tonne)

Product (CN code)		Amount of aid
Common wheat	(1001 90 99)	41,00
Barley	(1003 00 90)	54,00
Maize	(1005 90 00)	52,00
Durum wheat	(1001 10 00)	8,00
Oats	(1004 00 00)	64,00

COMMISSION REGULATION (EC) No 432/1999
of 26 February 1999
amending Regulation (EEC) No 1833/92 setting the amounts of aid for the supply
of cereals products from the Community to the Azores and Madeira

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira ⁽¹⁾, as last amended by Regulation (EC) No 562/98 ⁽²⁾, and in particular Article 10 thereof,

Whereas the amounts of aid for the supply of cereals products to the Azores and Madeira has been settled by Commission Regulation (EEC) No 1833/92 ⁽³⁾, as last amended by Regulation (EC) No 2750/98 ⁽⁴⁾; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community and on the world market, the aid for supply to the Azores

and Madeira should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex of amended Regulation (EEC) No 1833/92 is replaced by the Annex to the present Regulation.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 76, 13. 3. 1998, p. 6.

⁽³⁾ OJ L 185, 4. 7. 1992, p. 28.

⁽⁴⁾ OJ L 345, 19. 12. 1998, p. 17.

ANNEX

to the Commission Regulation of 26 February 1999 amending Regulation (EEC)
No 1833/92 setting the amounts of aid for the supply of cereals products from the
Community to the Azores and Madeira

(EUR/tonne)

Product (CN code)		Amount of aid	
		Destination	
		Azores	Madeira
Common wheat	(1001 90 99)	41,00	41,00
Barley	(1003 00 90)	54,00	54,00
Maize	(1005 90 00)	52,00	52,00
Durum wheat	(1001 10 00)	8,00	8,00

COMMISSION REGULATION (EC) No 433/1999**of 26 February 1999****fixing the maximum purchasing price for butter for the 234th invitation to tender carried out under the standing invitation to tender governed by Regulation (EEC) No 1589/87**

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular the first subparagraph of Article 7a(1) first indent and Article 7a(3) thereof,

Whereas Article 5 of Commission Regulation (EEC) No 1589/87 of 5 June 1987 on the sale by tender of butter to intervention agencies ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, provides that, in the light of the tenders received for each invitation to tender, a maximum buying-in price is to be fixed in relation to the intervention price applicable and that it may also be decided not to proceed with the invitation to tender;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 234th invitation to tender issued under Regulation (EEC) No 1589/87, for which tenders had to be submitted not later than 23 February 1999, the maximum buying-in price is fixed at EUR 295,38/100 kg.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 146, 6. 6. 1987, p. 27.

⁽⁴⁾ OJ L 16, 21. 1. 1999, p. 19.

COMMISSION REGULATION (EC) No 434/1999**of 26 February 1999****fixing the maximum aid for concentrated butter for the 198th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 7a(3) thereof,

Whereas, in accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; whereas Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; whereas the end-use security must be fixed accordingly;

Whereas, in the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 198th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

— maximum aid:	EUR 117/100 kg
— end-use security:	EUR 129/100 kg.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 45, 21. 2. 1990, p. 8.

⁽⁴⁾ OJ L 16, 21. 1. 1999, p. 19.

COMMISSION REGULATION (EC) No 435/1999**of 26 February 1999****fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 26th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 6(3) and (6) and Article 12(3) thereof,

Whereas the intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter; whereas Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter; whereas it is further stipulated that the price or aid may vary according

to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted; whereas the amount(s) of the processing securities must be fixed accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 26th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 350, 20. 12. 1997, p. 3.

⁽⁴⁾ OJ L 16, 21. 1. 1999, p. 19.

ANNEX

to the Commission Regulation of 26 February 1999 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 26th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Maximum aid	Butter ≥ 82 %		95	91	95	91
	Butter < 82 %		92	88	—	—
	Concentrated butter		117	113	117	113
	Cream		—	—	40	38
Processing security	Butter		105	—	105	—
	Concentrated butter		129	—	129	—
	Cream		—	—	44	—

COMMISSION REGULATION (EC) No 436/1999**of 26 February 1999****fixing the maximum buying-in price and the quantities of beef to be bought in under the 218th partial invitation to tender as a general intervention measure pursuant to Regulation (EEC) No 1627/89**

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 6(7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 2456/93 of 1 September 1993 laying down detailed rules for the application of Council Regulation (EEC) No 805/68 as regards the general and special intervention measures for beef⁽³⁾, as last amended by Regulation (EC) No 2812/98⁽⁴⁾, an invitation to tender was opened pursuant to Article 1(1) of Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender⁽⁵⁾, as last amended by Regulation (EC) No 136/1999⁽⁶⁾;

Whereas, in accordance with Article 13(1) of Regulation (EEC) No 2456/93, a maximum buying-in price is to be fixed for quality R3, where appropriate, under each partial invitation to tender in the light of tenders received; whereas, in accordance with Article 13(2) of that Regulation, a decision may be taken not to proceed with the tendering procedure; whereas, in accordance with Article 14 of that Regulation, only tenders quoting prices not exceeding the maximum buying-in price and not exceeding the average national or regional market price, plus the amount referred to in paragraph 1 of that Article, are to be accepted;

Whereas, once tenders submitted in respect of the 218th partial invitation to tender have been considered and taking account, pursuant to Article 6(1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings and prices, it has been decided not to proceed with the tendering procedure for category A and to fix the maximum buying-in price and the quantities which may be accepted into intervention for category C;

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

Under the 218th partial invitation to tender opened pursuant to Regulation (EEC) No 1627/89:

- (a) for category A, it has been decided not to proceed with the tendering procedure;
- (b) for category C:
 - the maximum buying-in price shall be EUR 232,50 per 100 kg of carcasses or half-carcasses of quality R3,
 - the maximum quantity of carcasses and half-carcasses accepted shall be 1 156 tonnes.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 17.

⁽³⁾ OJ L 225, 4. 9. 1993, p. 4.

⁽⁴⁾ OJ L 349, 24. 12. 1998, p. 47.

⁽⁵⁾ OJ L 159, 10. 6. 1989, p. 36.

⁽⁶⁾ OJ L 17, 22. 1. 1999, p. 26.

COMMISSION REGULATION (EC) No 437/1999

of 26 February 1999

amending Regulation (EC) No 245/1999 increasing to 103 605 tonnes the quantity of barley held by the Danish intervention agency for which a standing invitation to tender for export has been opened

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96 ⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;

Whereas Commission Regulation (EC) No 245/1999 ⁽⁵⁾, opened a standing invitation to tender for the export of 75 000 tonnes of barley held by the Danish intervention agency; whereas, Denmark informed the Commission of the intention of its intervention agency to increase by 28 605 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the Danish intervention agency for which a standing invitation to tender for export has been opened should be increased to 103 605 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EC) No 245/1999 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 245/1999 is hereby amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. The invitation to tender shall cover a maximum of 103 605 tonnes of barley to be exported to all third countries with the exception of the United States, Canada and Mexico.

2. The regions in which the 103 605 tonnes of barley are stored are stated in Annex I to this Regulation.';

2. Annex I is replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ L 5, 9. 1. 1999, p. 64.

⁽⁵⁾ OJ L 27, 2. 2. 1999, p. 11.

*ANNEX**'ANNEX I**(tonnes)*

Place of storage	Quantity
Jylland	69 574
Fyn	7 999
Sjælland	26 032'

COMMISSION REGULATION (EC) No 438/1999

of 26 February 1999

amending Regulation (EC) No 1735/98 increasing to 5 282 tonnes the quantity of barley held by the Luxembourg intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 39/1999⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;

Whereas Commission Regulation (EC) No 1735/98⁽⁵⁾, as last amended by Regulation (EC) No 2043/98⁽⁶⁾, opened a standing invitation to tender for the export of 3 981 tonnes of barley held by the Luxembourg intervention agency; whereas, Luxembourg informed the Commission of the intention of its intervention agency to increase by 1 301 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the Luxembourg intervention agency for which a standing invitation to tender for export has been opened should be increased to 5 282 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store;

whereas Annex I to Regulation (EC) No 1735/98 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1735/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 5 282 tonnes of barley to be exported to all third countries with the exception of the United States, Canada and Mexico.

2. The regions in which the 5 282 tonnes of barley are stored are stated in Annex I to this Regulation.

2. Annex I is replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ L 5, 9. 1. 1999, p. 64.

⁽⁵⁾ OJ L 217, 5. 8. 1998, p. 13.

⁽⁶⁾ OJ L 263, 26. 9. 1998, p. 15.

*ANNEX**'ANNEX I**(tonnes)*

Place of storage	Quantity
Luxembourg	5 282'

COMMISSION REGULATION (EC) No 439/1999

of 26 February 1999

amending Regulation (EC) No 190/1999 opening an invitation to tender for the mobilisation of pigmeat on the Community market with a view to its subsequent delivery to Russia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2802/98 of 17 December 1998 on a programme to supply agricultural products to the Russian Federation⁽¹⁾, and in particular Article 4(2) thereof,

Whereas Commission Regulation (EC) No 111/1999⁽²⁾ lays down general rules for the application of Regulation (EC) No 2802/98;

Whereas Commission Regulation (EC) No 190/1999⁽³⁾ opens an invitation to tender for the mobilisation of pigmeat on the Community market with a view to its subsequent delivery to Russia; whereas the periods for the submission of tenders were amended by Commission Regulation (EC) No 385/1999⁽⁴⁾;

Whereas the conditions for making the product available to the transporter under the abovementioned invitation to tender should be specified by setting the minimum daily rates of loading at the place of supply and by fixing the time from which the various charges incurred if the product storage period is extended are to be borne by the transporter;

Whereas, bearing in mind the period for the submission of tenders, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Communities*;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EC) No 190/1999 is amended as follows:

1. The following is added to the first subparagraph:

‘(d) making the product available to the transporter, before commencement of loading, for a minimum period of 10 days from the dates set in Annex II. Once that period has expired, the amount indicated in the tender in application of Article 5(1)(g)(4) of Regulation (EC) No 111/1999 shall be due to the successful tenderer for mobilisation’.

2. The second subparagraph is replaced by the following:

‘The tender shall contain the exact place where the product must be held available (cold store); all the products making up a single lot must be held there. That place must be easily accessible for take-over by the transporter and must guarantee a rate of loading of 100 t per working day’.

Article 2

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

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

Done at Brussels, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 349, 24. 12. 1998, p. 12.

⁽²⁾ OJ L 14, 19. 1. 1999, p. 3.

⁽³⁾ OJ L 21, 28. 1. 1999, p. 14.

⁽⁴⁾ OJ L 46, 20. 2. 1999, p. 48.

COMMISSION REGULATION (EC) No 440/1999

of 26 February 1999

opening import quotas in respect of special preferential raw cane sugar from the
ACP States for supply to refineries in the period 1 March to 30 June 1999

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 market in sugar ⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98 ⁽²⁾, and in particular Articles 14(2) and 37(6) thereof,

Whereas Article 37 of Regulation (EEC) No 1785/81 lays down that, during the marketing years 1995/96 to 2000/01 and in order to ensure adequate supplies to Community refineries, a special reduced duty is to be levied on imports of raw cane sugar originating in States with which the Community has concluded supply arrangements on preferential terms; whereas at present such agreements have been concluded by Council Decision 95/284/EC ⁽³⁾ only with the ACP States party to Protocol 8 on ACP sugar annexed to the Fourth ACP-EEC Lomé Convention, and with the Republic of India;

Whereas the quantities of special preferential sugar to be imported are calculated in accordance with the said Article 37 of Regulation (EEC) No 1785/81 on the basis of a Community forecast supply balance; whereas the balance has indicated the need to import raw sugar and to open at this stage for the 1998/99 marketing year a tariff quota at the special reduced rate of duty as provided for in the abovementioned agreements so that the Community refineries' supply need can be met for part of the year; whereas tariff quotas have in this way been opened by Commission Regulation (EC) No 1375/98 ⁽⁴⁾ for the period 1 July 1998 to 28 February 1999; whereas the production forecasts for raw cane sugar are now available for the 1998/99 marketing year; whereas the necessary tariff quotas should consequently be opened for the second part of the marketing year; whereas, because of the presumed maximum refining needs fixed by Member States and the shortfall resulting from the forecast supply balance, provision should be made to authorise imports for each refining Member State, for the period 1 March to 30 June 1999;

Whereas the above agreements lay down that the refiners in question must pay a minimum purchase price equal to the guaranteed price for raw sugar, minus the adjustment

aid fixed for the marketing year in question; whereas this minimum price must therefore be fixed by taking account of the factors applying in the 1998/99 marketing year;

Whereas in order to avoid a rupture of supplies, provision should be made in respect of the quantities to be imported under Regulation (EC) No 1375/98 for which the licences have not been requested up to 28 February 1999, for the Member States concerned to be authorised to issue the said licences after that date during the 1998/99 marketing year;

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

A tariff quota is hereby opened for the period 1 March to 30 June 1999 under Decision 95/284/EC, in respect of imports of raw cane sugar for refining, amounting to 69 000 tonnes expressed as white sugar originating in the ACP States covered by that Decision.

This tariff quota shall bear the serial number 09.4097.

Article 2

1. A special reduced duty of EUR 5,41 per 100 kg of standard quality raw sugar shall apply to imports of the quantity referred to in Article 1.

2. Article 7 of Commission Regulation (EC) No 1916/95 ⁽⁵⁾ notwithstanding, the minimum purchase price to be paid by the Community refiners shall be fixed for the period referred to in Article 1 at EUR 49,68 per 100 kg of standard quality raw sugar.

Article 3

The following Member States are hereby authorised to import under the quota referred to in Article 1 and on the terms laid down in Article 2(1) the following shortfall expressed as white sugar:

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 181, 1. 8. 1995, p. 22.

⁽⁴⁾ OJ L 185, 30. 6. 1998, p. 43.

⁽⁵⁾ OJ L 184, 3. 8. 1995, p. 18.

- (a) Finland: 15 000 tonnes,
- (b) metropolitan France: 39 500 tonnes,
- (c) mainland Portugal: 14 500 tonnes,
- (d) United Kingdom: 0 tonnes.

have not been lodged before 1 March 1999, to issue such licences to allow import and refining to take place until 30 June 1999.

Article 4

The Member States referred to in Article 3 of Regulation (EC) No 1375/98 are authorised, for the quantities in the said Article for which the applications for import licences

Article 5

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 441/1999

of 26 February 1999

fixing the export refunds on rice and broken rice and suspending the issue of export licences

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⁾, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas export possibilities exist for a quantity of 3 000 t of rice to certain destinations; whereas the procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 444/98 ⁽⁵⁾ should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when

the export refund on rice and broken rice is being calculated;

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

Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

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

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

Whereas, for the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

With the exception of the quantity of 3 000 t provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 1 March 1999.

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 154, 15. 6. 1976, p. 11.

⁽⁴⁾ OJ L 117, 24. 5. 1995, p. 2.

⁽⁵⁾ OJ L 56, 26. 2. 1998, p. 12.

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

Done at Brussels, 26 February 1999.

For the Commission
 Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 26 February 1999 fixing the export refunds on rice and broken rice and suspending, the issue of export licences

(EUR/t)			(EUR/t)		
Product code	Destination (1)	Amount of refunds	Product code	Destination (1)	Amount of refunds
1006 20 11 9000	01	74,00	1006 30 65 9900	01	92,00
1006 20 13 9000	01	74,00		04	—
1006 20 15 9000	01	74,00	1006 30 67 9100	05	98,00
1006 20 17 9000	—	—	1006 30 67 9900	—	—
1006 20 92 9000	01	74,00	1006 30 92 9100	01	92,00
1006 20 94 9000	01	74,00		02	—
1006 20 96 9000	01	74,00		03	—
1006 20 98 9000	—	—		04	—
1006 30 21 9000	01	74,00		05	98,00
1006 30 23 9000	01	74,00	1006 30 92 9900	01	92,00
1006 30 25 9000	01	74,00		04	—
1006 30 27 9000	—	—	1006 30 94 9100	01	92,00
1006 30 42 9000	01	74,00		02	—
1006 30 44 9000	01	74,00		03	—
1006 30 46 9000	01	74,00		04	—
1006 30 48 9000	—	—		05	98,00
1006 30 61 9100	01	92,00	1006 30 94 9900	01	92,00
	02	—		04	—
	03	—	1006 30 96 9100	01	92,00
	04	—		02	—
	05	98,00		03	—
1006 30 61 9900	01	92,00		04	—
	04	—		05	98,00
1006 30 63 9100	01	92,00	1006 30 96 9900	01	92,00
	02	—		04	—
	03	—	1006 30 98 9100	05	98,00
	04	—	1006 30 98 9900	—	—
	05	98,00	1006 40 00 9000	—	—
1006 30 63 9900	01	92,00			
	04	—			
1006 30 65 9100	01	92,00			
	02	—			
	03	—			
	04	—			
	05	98,00			

(1) The destinations are identified as follows:

- 01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia; refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a quantity of 2 000 t of milled rice equivalent,
- 02 Zones I, II, III, VI,
- 03 Zones IV, V, VII (c), Canada and Zone VIII excluding Suriname, Guyana and Madagascar,
- 04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,
- 05 Ceuta and Melilla; refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 1 000 t.

NB: The zones are those defined in the Annex to amended Commission Regulation (EEC) No 2145/92.

COMMISSION REGULATION (EC) No 442/1999

of 26 February 1999

fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2566/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2566/98 ⁽³⁾;

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

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2566/98 is hereby fixed on the basis of the tenders submitted from 22 to 25 February 1999 at EUR 326,00 per tonne.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 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 320, 28. 11. 1998, p. 49.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 443/1999**of 26 February 1999****fixing the maximum export refund on wholly milled medium round grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2565/98**

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⁾, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2565/98 ⁽³⁾;

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

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled medium round grain and long grain A rice to be exported to certain third countries of Europe pursuant to the invitation to tender issued in Regulation (EC) No 2565/98 is hereby fixed on the basis of the tenders submitted from 22 to 25 February 1999 at EUR 125,00 per tonne.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 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 320, 28. 11. 1998, p. 46.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 444/1999
of 26 February 1999
setting the amounts of aid for the supply of rice products from the Community
to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands ⁽¹⁾, as last amended by Regulation (EC) No 2348/96 ⁽²⁾, and in particular Article 3 thereof,

Whereas, pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EC) No 2790/94 ⁽³⁾, as last amended by Regulation (EC) No 825/98 ⁽⁴⁾, lays down common detailed rules for implementation of the specific

arrangements for the supply of certain agricultural products, including rice, to the Canary Islands;

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of Regulation (EEC) No 1601/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Canary Islands shall be as set out in the Annex hereto.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ L 117, 21. 4. 1998, p. 5.

ANNEX

to the Commission Regulation of 26 February 1999 setting the amounts of aid for the supply
of rice products from the Community to the Canary Islands

(EUR/tonne)

Product (CN code)	Amount of aid
Milled rice (1006 30)	106,00
Broken rice (1006 40)	23,00

COMMISSION REGULATION (EC) No 445/1999

of 26 February 1999

setting the amounts of aid for the supply of rice products from the Community
to the Azores and Madeira

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira ⁽¹⁾, as last amended by Regulation (EC) No 2348/96 ⁽²⁾, and in particular Article 10 thereof,

Whereas, pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira; whereas Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Azores and Madeira and establishing the fore-

cast supply balance for these products ⁽⁵⁾, as last amended by Regulation (EC) No 1683/94 ⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 10 of Regulation (EEC) No 1600/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Azores and Madeira shall be as set out in the Annex hereto.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 179, 1. 7. 1992, p. 6.

⁽⁴⁾ OJ L 238, 23. 9. 1993, p. 24.

⁽⁵⁾ OJ L 198, 17. 7. 1992, p. 37.

⁽⁶⁾ OJ L 178, 12. 7. 1994, p. 53.

ANNEX

to the Commission Regulation of 26 February 1999 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

(EUR/tonne)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	106,00	106,00

COMMISSION REGULATION (EC) No 446/1999**of 26 February 1999****concerning tenders submitted in response to the invitation to tender for the export to certain third countries of wholly milled round grain, medium grain and long grain A rice issued in Regulation (EC) No 2564/98**

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⁾, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued under Commission Regulation (EC) No 2564/98 ⁽³⁾;

Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award;

Whereas on the basis of the criteria laid down in Article 13 of Regulation (EC) No 3072/95 a maximum refund should not be fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 22 to 25 February 1999 in response to the invitation to tender for the export refund on wholly milled round grain, medium grain and long grain A rice to certain third countries issued in Regulation (EC) No 2564/98.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 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 320, 28. 11. 1998, p. 43.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 447/1999
of 26 February 1999
amending the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾, as last amended by Regulation (EC) No 2916/95 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas the export refunds on poultrymeat were fixed by Commission Regulation (EC) No 395/1999 ⁽³⁾;

Whereas it follows from applying the criteria referred to in Article 8 of Regulation (EEC) No 395/1999⁷⁵ to the information known to the Commission that the export

refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 paragraph 1 of Regulation (EEC) No 2777/75, exported in the natural state, as fixed in the Annex to Regulation (EC) No 395/1999 are hereby altered as shown in the Annex to this Regulation.

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, 26 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ L 305, 19. 12. 1995, p. 49.

⁽³⁾ OJ L 48, 24. 2. 1999, p. 11.

ANNEX

to the Commission Regulation of 26 February 1999 altering the export refunds on poultry-meat

Product code	Destination of refund ⁽¹⁾	Amount of refund
		EUR/100 units
0105 11 11 9000	01	1,40
0105 11 19 9000	01	1,40
0105 11 91 9000	01	1,40
0105 11 99 9000	01	1,40
		EUR/100 kg
0207 12 10 9900	02	28,00
0207 12 90 9190	02	28,00
0207 12 90 9990	02	28,00

⁽¹⁾ The destinations are as follows:

01 All destinations except the United States of America,

02 Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, the United Arab Emirates, Jordan, Yemen, Lebanon, Iraq and Iran.

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

COMMISSION REGULATION (EC) No 448/1999**of 26 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 apples for destination group XY 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 apples for destination group XY exported after 26 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 apples for destination group XY submitted pursuant to Article 1 of Regulation (EC) No 2776/98, export declarations for which are accepted after 26 February 1999 and before 17 March 1999, are hereby rejected.

Article 2

This Regulation shall enter into force on 27 February 1999.

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

Done at Brussels, 26 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.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 April 1998

on State aid for Triptis Porzellan GmbH (in liquidation), Thuringia

(notified under document number C(1998) 1324)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/157/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having given the parties concerned the opportunity to submit their comments, in accordance with the aforementioned Articles,

Having regard to the comments received,

Whereas:

I

By letter dated 30 May 1997 the Commission informed the German Government of its decision to initiate Article 92(3) proceedings against aid for Triptis Porzellan GmbH, Thuringia (hereinafter referred to as 'Triptis'), and requested it to submit its comments.

The other Member States and interested parties were informed of the opening of proceedings and were invited to submit their comments, by way of a notice published in the *Official Journal of the European Communities*⁽¹⁾.

⁽¹⁾ OJ C 250, 15. 8. 1997, p. 3.

Germany gave its comments by letter dated 11 July (registered the same day). The Commission requested further information in its letters dated 28 July and 5 August, to which the German Government replied by letters dated 29 August (registered on 12 September) and 8 September (registered on 9 September). The case was discussed with the German authorities on 18 and 19 September in Berlin.

By letter dated 15 September 1997, the Commission received comments from a Spanish competitor. The translation of these comments was transmitted to Germany by letter dated 27 October. Germany replied to them by letter dated 1 December (registered on 2 December 1997).

II

Triptis Porzellan GmbH, Thuringia ('Triptis'), a German porcelain manufacturer, was founded in 1891 under the name Unger & Gretschel. The enterprise was located in the eastern *Land* of Thuringia.

In the former GDR, the State-owned VEB Porzellanwerk Triptis porcelain formed part of the fine ceramics conglomerate Kahla (Kombinat Feinkeramik Kahla). It had neither its own trade mark, nor its own distribution system.

On 1 July 1990, when the THA (Treuhandanstalt) took over the VEB Porzellanwerk Triptis, there were about 900 employees.

The restructuring of Triptis started with the firm's privatisation in September 1993. When opening proceedings, the Commission expressed doubts as to the procedure followed for privatisation.

In the context of privatisation the company received extensive aid (totalling DEM 34,7 million in loans relinquished), all of it covered by the Treuhandregime, a scheme approved by the Commission⁽¹⁾. After privatisation the enterprise not only had to be rebuilt, but because of the disappearance of the East European markets had also to develop a selling and distribution system in new markets. Therefore immediately after privatisation, the enterprise made a difficult operational start and acquired high liabilities.

In early 1995 the management realised that the restructuring of the enterprise could not be carried out successfully with its own financial resources. The *Bundesanstalt vereinigungsbedingter Sonderaufgaben* (BvS) was therefore asked for financial support. The aid took the form of a loan of DEM 8 million (plus interest) which was granted by the BvS under a 'concerted action'. Repayment of this loan was later waived. The Commission was notified of this loan at the time when repayment was waived. All the parties involved (investors, workers, BvS) made efforts to rescue the company. In this context the Hessische Landesbank (HeLaBa) waived repayment of DEM 10 million of a larger debt package.

On 30 April 1997 the Commission decided to initiate Article 93(2) proceedings against the State aid granted to Triptis. The Commission concluded that the BvS loan of DEM 8 million (plus interest) constituted aid of which the Commission should have been notified at the time it was granted, pursuant to Article 93(3) of the Treaty. There was also the question of whether HeLaBa's waiving of the repayment of DEM 10 million constituted 'aid' within the meaning of Article 92(1) of the EC Treaty.

The two particular reasons for which the proceedings were opened were:

- (1) as the Hessische Landesbank is State-owned, the Commission expressed doubts as to whether it had really acted as a private banker in waiving repayment of the loan. For this reason, there was still uncertainty as regards the exact amount of the aid granted. This problem was to be settled within the proceedings;

⁽¹⁾ E15/92 (not published): of the total DEM 34,71 million in waived loans, DEM 19,26 million was intended to safeguard liquidity, DEM 7,25 million was for investment purposes and DEM 8,2 million to cover losses. As the company did not reach the thresholds laid down by the Treuhandregime of 1 500 employees and DEM 150 million in financial liabilities, individual notification was not necessary.

- (2) Triptis produced in a market which suffers from severe overcapacity. Under the overall restructuring process the company was reducing its capacity by 50 %, but there were no plans for further capacity reduction in relation to the new aid. In view of the severe overcapacity in the porcelain sector, it could be argued that the aid to Triptis distorted competition unduly and damaged competitors that received no aid. In other cases in the same sector, competitors have objected to possible aid.

This led to serious doubts as to whether the aid was compatible with the derogations laid down in Article 92(3)(a) and (c) of the EC Treaty, and in particular with the 'Community Guidelines on State aid for rescuing and restructuring firms in difficulty'⁽²⁾.

The Commission at no point expressed doubts concerning the viability of the company.

III

It was only by letter dated 11 July 1997 that Germany informed the Commission that the special insolvency proceedings for enterprises in the new *Länder* (*Gesamt-vollstreckungsverfahren*) had been commenced on 30 April 1997. By its own account, the German Government did not learn of these proceedings until July. For this reason, Germany also intended to withdraw the notification of the aid.

By letter dated 28 July 1997, the German authorities were informed that it was not possible to withdraw the notification, because the aid had been granted before its notification in July and September 1996 and the Article 93(2) proceedings with regard to these aid measures had already been initiated. Germany was also told that the Commission had based its assessment on the date on which aid had been granted and that therefore the fact that the aid had been listed in the special insolvency proceedings made no difference.

The information submitted on 8 September 1997 shows that the DEM 10 million loan, repayment of which was waived by HeLaBa under the concerted action, was secured by a 90 % guarantee from Thuringia. This guarantee had not been notified and must therefore be regarded as unlawful. After HeLaBa had waived the loan, it invoked the Thuringian guarantee, and as a result was paid 90 % of the original loan amount (DEM 9 million). Since both the repayment waiver and the guarantee payment had taken place as far back as 1996, neither HeLaBa nor Thuringia laid claim to the loan or the guarantee as part of the special insolvency proceedings.

⁽²⁾ OJ C 368, 23. 12. 1994, p. 12.

In addition, in 1993 and 1994 Thuringia had taken on guarantees in relation to HeLaBa (to secure 90 % of the total loan amount) for loans totalling DEM 26,75 million, without notifying the Commission thereof. These guarantees were awarded by the Thuringian Ministry of Finance in the course of the privatisation, and related to investment credits of DEM 14,75 million and DEM 5 million and guarantees for operating funds of DEM 7 million. This amount already includes the 90 % guarantee for the DEM 10 million loan which was waived in 1996. Since Thuringia had already paid out this guarantee (totalling DEM 9 million) to HeLaBa, this amount must also be taken into account in the assessment of aid.

HeLaBa laid claim to the remaining loans, totalling DEM 16,75 million, under the special insolvency proceedings, but it is unlikely that much of this amount will be settled within this procedure. Consequently it is virtually certain that the corresponding guarantees will be used for payment. Therefore the assessment takes into account the total amount of the unlawfully granted guarantees, representing an aid amount of DEM 24,075 million.

By letter dated 1 December 1997 with which the German authorities reacted to the initiation of proceedings, they submitted the information that as part of the special insolvency proceedings the BvS had given notice of a DEM 8,75 million penalty for employment guarantees, a DEM 2,685 million penalty for inability to demonstrate proper application of reserve funds and the loan amount of DEM 8 million (plus interest), repayment of which was waived in the concerted action.

IV

After the Triptis insolvency, the receiver tried to find a buyer to whom the fixed assets of the company could be sold as part of a second privatisation so that the company would continue in operation (*Auffanglösung*). The company was offered to various porcelain manufacturers in Germany and Europe, and outside Europe, and the Treuhandanstalt (THA) received 13 bids. The contract was concluded with the investor who submitted the best business plan and made the best offer.

In the end, only two interested parties remained, the German company Winterling Porzellan AG of Kirchenlamitz, and the French company Medard de Noblat of Limoges. On 18 June 1997 the fixed assets of Triptis GmbH (in liquidation) were sold to Winterling for DEM

2,5 million. Winterling also offered an investment guarantee of DEM 8 million and the maintenance of 160 jobs. The Winterling offer was therefore held to be the better, because Medard de Noblat offered to pay just DEM 1, promised investment of DEM 4 million and would give no employment guarantee.

As regards capacity reduction, there is information to the effect that in 1996 capacity amounted to 3 000 tonnes and utilisation was 2 300 tonnes on five working days. There are no plans for the 'new' Triptis to cut its capacity further: it will remain at 3 000 tonnes with utilisation reaching 2 880 tonnes on seven working days.

Although the new company will not receive any restructuring aid, Thuringia is planning to grant resources from the joint Federal/*Länder* programme (GA-Mittel) for new investment under the approved twenty-sixth outline plan for the joint Federal/*Länder* programme⁽¹⁾.

V

By letter dated 16 December 1997, the Commission sent the German authorities the comments of third parties, namely of one Spanish competitor, which it had received after the decision to initiate proceedings had been published.

The Spanish competitor expressed concern about the effects on the European porcelain market if Triptis were to be restructured with State financial support. It argued that Triptis would have a considerable advantage because the competitor would have to finance restructuring measures out of its own resources whereas Triptis was receiving State aid to do so. This would seriously affect competition in a market where overcapacity was enormous and would damage competitors which did not receive financial support from the state. The competitor also argued that the flexibility with which the Commission can act as regards the question of capacity reduction in assisted areas would enable it to avoid any capacity reduction altogether. For this reason restructuring aid must always be tied to capacity reduction. The competitor could therefore only agree to a smaller reduction. The third argument was that Triptis was planning to increase its export share from 20 % to 38 % which, in view of the overcapacity which already existed on the market, would be to the detriment of its West European competitors.

VI

By letter dated 1 December 1997, the German authorities replied to the Spanish competitor's comments.

The letter confirmed that HeLaBa was laying claim to DEM 16,75 million under the special insolvency proceedings, whereas Thuringia was not claiming the DEM 9 million which were requested by HeLaBa on basis of the guarantee.

⁽¹⁾ N 123/97.

The BvS was claiming a total amount of DEM 19 717 567 (DEM 8,75 million as a penalty for employment guarantees, DEM 2,685 million as a penalty for inability to demonstrate proper application of reserve funds and DEM 8 million (plus interest) representing the waiver of repayment).

On the question of capacity, the letter referred to the notification, which had already mentioned a capacity reduction from 6 500 tonnes to 3 000 tonnes since privatisation in 1993; but it repeated that for the future there were no plans for further capacity reduction in relation to the new aid.

VII

The Article 93(2) proceedings confirmed the Commission's view that the BvS loan of DEM 8 million (plus interest) must be regarded as aid within the meaning of Article 92(1) of the EC Treaty and is not compatible with the derogations laid down in Article 92(3), and in particular with the 'Guidelines on State aid for rescuing and restructuring firms in difficulty', the only basis on which the aid could have been approved.

The same applies to Thuringia's unlawful guarantees of DEM 26,75 million which were revealed in the course of the proceedings.

It is further established that HeLaBa's waiver of repayment of the DEM 10 million loan under concerted action does not in itself constitute aid within the meaning of Article 92(1) of the EC Treaty, as the loan was secured by a 90 % State guarantee. Such a guarantee shifts the risk which a bank runs in lending to a company (irrespective of whether the company is in difficulty or not) almost entirely to the public authorities, leaving almost no risk for the bank itself.

- (1) The amount of DEM 8 million (plus interest) granted to Triptis in the form of a loan on which the interest rate was 4,4 % is undoubtedly aid within the meaning of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement. Since the company had been in difficulties since its privatisation in 1993, no private bank or private investor would have granted a loan at less than the market interest rate, which in 1996 stood at 7,33 %. The difficulties were mostly rooted in the late privatisation, because no private investor could be

found before then, so that no restructuring plan could be developed and implemented. As a result the necessary investments were delayed and the company acquired high liabilities while having to continue inefficient production with its obsolete equipment.

The DEM 8 million loan (plus interest) was then waived under the concerted action. The aid intensity was already around 100 % because the company was in difficulties within the meaning of the Commission communication to the Member States on the application of Articles 92 and 93 of the EC Treaty to public undertakings⁽¹⁾. Consequently, the waiver of the loan does not increase the aid intensity.

- (2) Thuringia's guarantees of DEM 26,75 million (in several instalments) must also be regarded as aid within the meaning of Article 92(1) of the EC Treaty. The aid element deriving from such a guarantee is generally equal to the difference between the interest rate on a loan raised on normal market terms and the actual interest rate secured by virtue of the guarantee. The Commission has consistently taken the view, as for example in Decision 94/696/EC⁽²⁾, that whenever, because of an undertaking's severe financial circumstances, no credit institution would be prepared to lend to it without a State guarantee, the whole amount of the loan is to be regarded as aid. Since in this case the guarantee is for 90 %, the aid granted amounts to DEM 24,075 million.

As regards the aid awarded to Triptis, it could be assumed that it would probably distort competition and affect trade between Member States. Triptis produces and sells household porcelain in the upper A segment. In 1995 the relevant market (A segment) was about DEM 341 million in West Germany and about DEM 98 million in East Germany. Triptis had a market share of 3,6 % on the German market, one of the largest porcelain markets in the Community. Trade in the ceramic/porcelain sector between Germany and the other Member States is strong. In 1993 German imports of tableware and ornamental ceramics amounted to ECU 357,02 million and exports amounted to ECU 403,97 million.

The Community ceramic goods sector has total production approaching ECU 17 billion and employs around 210 000 people involving over 2 500 companies. European production grew by an average 0,9 % *per annum* and consumption by 1,18 % over the 1984 to 1993 period. Triptis became heavily involved in intra-Community trade. Roughly 20 % of its output was supplied to the West European market, in particular Italy, France and Sweden. For this reason, any aid to Triptis Porzellan GmbH is likely to improve its position on the market *vis-à-vis* its competitors in the Community which do not receive State support.

⁽¹⁾ OJ C 307, 13. 11. 1993, p. 3.

⁽²⁾ OJ L 273, 25. 10. 1994, p. 22.

The aid programme for Thuringia's guarantees⁽¹⁾ on which the 1993 and 1994 guarantees were clearly based⁽²⁾, was not notified at the time and has still not been approved for the period 1992 to 1994. The aid measures were therefore not granted under an approved aid scheme and therefore, pursuant to Article 93(3) of the EC Treaty, should have been notified individually, before being put into effect. The German authorities did not comply with this requirement under Article 93(3) since the BvS loan and the Land guarantees were granted without first being approved by the Commission. This means that the aid is unlawful.

While there would have been a possibility of exempting the aid from the prohibition under Article 92(1) of the EC Treaty, the derogations laid down in Article 92(2) are not applicable in this case, because of the nature of the aid and the fact that no attempt was made to meet the conditions in which these derogations apply.

As regards the derogations under Article 92(3) of the EC Treaty, it is true that Triptis is located in an area where there is serious underemployment or where the standard of living is abnormally low. According to Article 92(3)(a), aid to promote the economic development of such areas may be considered to be compatible with the common market. The aid in question certainly did not contribute to the economic development of the region, since it served primarily to keep a loss-making firm on the market, and not to create investment and jobs. Consequently it must be regarded as *ad hoc* aid directed towards restoring the viability of a company in difficulties in an economically weakened region.

Compatibility is therefore assessed under Article 92(3)(c), since the restructuring of a company in difficulty is involved. For this derogation to be applicable, the aid must satisfy the conditions laid down by the Community guidelines on State aid for rescuing and restructuring firms in difficulty. It must, in particular:

- restore the viability of the firm within a reasonable time scale and on the basis of a sound and realistic restructuring programme,
- avoid undue distortion of competition. This means that for any aid to be approved under the guidelines, measures must be taken to offset as far as

possible adverse effects on competitors, since otherwise the aid would be contrary to the common interest and ineligible for exemption pursuant to Article 92(3)(c) of the EC Treaty. Therefore, where an objective assessment of the demand and supply situation shows that there is a structural excess of production capacity in a relevant market in the Community, the restructuring plan must make a contribution, proportionate to the amount of aid received, to the restructuring of the industry serving the relevant market in the Community by irreversibly reducing or closing capacity. However, the Commission is able to apply this principle more flexibly in an area coming under Article 93(3)(a) of the EC Treaty,

- limit the amount of aid to the strict minimum. The analysis of the measures should prove that the aid is proportionate to the costs and benefits of restructuring. The form in which the aid is granted must be such as to avoid providing the company with surplus cash. The aid must not be used for aggressive, market-distorting activities or for investment not required for the restructuring process, but must be absolutely necessary to solve the special problems of the company.

As regards the first condition, when it initiated the Article 93(2) proceedings the Commission, basing itself on the figures which were submitted by the German authorities in the notification and subsequent information, expressed no doubts whatsoever as to the company's viability. These forecasts assume a steady increase in annual turnover, a return to viability in 1997/98 and a profit of DEM 1,25 million in the same year. Therefore the doubts which led to the initiation of proceedings concerned only the question of capacity and uncertainty as to the exact amount of the aid. As was then shown by the company's bankruptcy on 30 April 1997, the figures, which had been submitted only five months earlier, were obviously either already out of date when they reached the Commission or were based on unrealistic assumptions. What is more, the German authorities were apparently aware of this fact before the Commission was informed.

Furthermore, when it initiated proceedings, the Commission knew nothing of the unlawful aid of DEM 26,75 million in the form of guarantees from Thuringia. It also seems that in 1993 and 1994, i.e. at the time when the aid was granted, no viable restructuring plan existed and that therefore this aid was unrelated to any restructuring effort.

⁽¹⁾ *Richtlinie für die Übernahme von Bürgschaften und Garantien zugunsten der Wirtschaft und der freien Berufe durch den Freistaat Thüringen* (Programme for taking over guarantees in favour of business and the liberal professions by Thuringia) of 18 June 1992. As the Commission explicitly stated in its letter, in the approval of the next guarantee programme in 1996, no account was taken of its predecessors: SG(96)D/11031.

⁽²⁾ At no time during the proceedings did Thuringia refer to this legal basis.

So, despite all efforts, the viability of Triptis could not be restored, and at the same time the aim of the concerted action — to save Triptis from bankruptcy — was not attained either.

As regards the second condition, it emerged during the proceedings that overcapacity does exist in the porcelain industry. Community production and consumption of ceramic goods grew steadily between 1984 and 1991, and then fell back in 1992 and 1993. A recovery in production figures has been expected since 1994. Even an increase in exports cannot compensate for the pressure of competition in this sector. On the contrary, the strained competitive situation connected with the overcapacity within the Community could intensify further as a result of increasing imports from south-east Asia and the central and east European countries, particularly the Czech Republic and Hungary, which benefit from their trade agreements with the Community. This situation led to high production costs and the overcapacity which exists in the Community tableware sector. Therefore there is still a long way to go before restructuring is achieved.

During the proceedings it was established that in view of the severe overcapacity in the porcelain industry, the aid granted to Triptis did in fact unduly distort competition and that consequently the payment damaged competitors which did not receive aid and had to manage structural adjustment with their own resources. The presumption that the aid to Triptis was likely unduly to distort competition is confirmed by the reaction of a Spanish competitor which it sent to the Commission.

According to the third condition, the form in which the aid is granted must be such as to avoid providing the company with surplus cash which could be used for an aggressive market policy not linked to the restructuring process. A major part of the aid was granted as far back as 1993 and 1994 and was necessitated by the high liabilities and interest payments. The same applies to the DEM 8 million made available to Triptis, of which only DEM 600 000 was available as liquidity. DEM 7,4 million was used to cover the losses incurred in the years 1994 to 1996.

As regards the proportionality of the aid, Triptis had already contributed DEM 17 million to investment and DEM 24,7 million to cover losses. In addition, in 1996 the enterprise promised to invest a further DEM 2,5 million, with each of the investors contributing DEM 100 000. Since this exhausts their own resources, they are no longer in a position to contri-

bute any more funds. In view of the fact that these are private individuals and not firms with the corresponding financial resources, their contribution can be described as appropriate.

Since already two of the three criteria set out in the guidelines are not met, the aid cannot be approved on the basis of Article 92(3)(c) of the EC Treaty.

Taking all these facts into account the Commission has to conclude that both the BvS loan of DEM 8 million (plus interest) and the individual guarantees totalling DEM 26,75 million (aid intensity DEM 24,075 million) granted by Thuringia must be regarded as aid to which none of the derogations laid down in Article 92(3) applies.

- (3) HeLeBa's waiver of the DEM 10 million loan under concerted action does not in itself constitute aid, since it was provided under a 90 % State guarantee, which constitutes the aid element of the action. In this connection, it seems reasonable to assume that normal market behaviour is involved, although the public authorities have secured 90 % of the loan and have thus taken over most of the risk.
- (4) As regards the continuation arrangements (*Auffanglösung*) which were established after Triptis went bankrupt and under which Winterling took over the company's fixed assets, the extent to which this offer can be considered the best has still to be settled. After an open and unconditional invitation to tender, two interested parties remained, Winterling and the French company Medart de Noblat. Winterling offered a purchase price of DEM 2,5 million and an investment guarantee of DEM 8 million and undertook to keep 160 employees. Medart de Noblat offered a purchase price of only DEM 1, an investment guarantee of DEM 4 million and no employment guarantee. On this basis, Winterling's offer could be regarded as the better of the two. As a result, the fixed assets of Triptis were sold to Winterling on 18 June 1997. This admits of the conclusion that no aid measures were involved in Winterling's purchase of the Triptis fixed assets.

According to the information submitted by Germany on 9 September 1997, the new company will receive no restructuring aid, except for funds for new investment which Thuringia plans to grant under the approved twenty-sixth outline plan for the joint Federal/Länder programme. While this subsidy is to be regarded as aid, it is covered by Commission approval. Any further aid to the new company must be notified to the Commission.

VIII

In cases where aid is deemed incompatible with the common market, the Commission requires the Member State to reclaim the aid from the recipient⁽¹⁾. Since this applies to the measures in favour of Triptis which are the subject of this Decision, the aid must be recovered. Nor does the fact that Triptis has in the meantime filed for insolvency make any difference to this assessment.

The recovery of the aid must take place in accordance with German law, including the rules on default interest on claims governed by public law in accordance with the normal market reference interest rate in force; interest runs from the date on which the aid was granted⁽²⁾.

In accordance with the judgment of the Court of Justice of the European Communities in Case C-142/87 Belgium v. Commission⁽³⁾ the provisions relevant for the recovery of aid are to be applied in such a way that the recovery required by Community law is not rendered practically impossible. Any procedural or other difficulties in regard to the implementation of the measure cannot have any influence on its lawfulness,

HAS ADOPTED THIS DECISION:

Article 1

Both the loan of DEM 8 million (plus interest) granted by the *Bundesanstalt vereinigungsbedingter Sonderaufgaben* and the 90 % guarantee provided by Thuringia to Triptis Porzellan GmbH (in several instalments) for loans totalling DEM 26,75 million (aid amount — DEM 24,075 million) are unlawful since they were granted without the Commission having first been notified in accordance with Article 93(3) of the EC Treaty.

In accordance with Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement, the aid is incompatible with the common market, since it meets none of the

conditions contained in those Articles under which an exemption or derogation can be granted.

Article 2

Germany shall ensure that the aid referred to in Article 1 is reclaimed and repaid in full within two months of the date of notification of this Decision.

The aid shall be recovered in accordance with the procedures and provisions of German law, and in particular the rules on default interest on claims governed by public law, and includes interest on the aid which starts to run from the date on which it was granted until it is repaid, with the rate applied being the reference rate used to calculate the net grant equivalent of regional aid in Germany.

These provisions shall be applied in such a way that the recovery required by Community law is not rendered practically impossible. Any procedural or other difficulties in regard to the implementation of the measure shall not have any influence on its lawfulness.

Article 3

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

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 22 April 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ Commission communication of 24 November 1983 (OJ C 318, 24. 11. 1983, p. 3).

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

⁽³⁾ ECR [1990] I-959 (paragraphs 58 to 63).

COMMISSION DECISION

of 16 February 1999

authorising the Member States exceptionally to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of plants of *Vitis* L., other than fruits, originating in Croatia

(notified under document number C(1999) 328)

(1999/158/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Directive 98/2/EC⁽²⁾, and in particular Article 14(1) thereof,

Having regard to the request made by Italy, in respect of plants of *Vitis* L., other than fruits, originating in Croatia,

Whereas, under the provisions of Directive 77/93/EEC, plants of *Vitis* L., other than fruits, originating in third countries, may in principle not be introduced into the Community;

Whereas by Decisions 97/78/EC⁽³⁾ and 98/86/EC⁽⁴⁾ the Commission authorised Member States to provide for derogations in respect of plants of *Vitis* L., other than fruits, originating in Croatia under specified conditions in the 1997 and 1998 seasons;

Whereas there have been no confirmed findings of harmful organisms during the inspections on the plants introduced pursuant to Decision 98/86/EC;

Whereas the circumstances justifying the authorisation for Croatia still obtain;

Whereas therefore a derogation should be authorised for a limited period, provided that it includes specific conditions and without prejudice to Council Directive 68/193/EEC⁽⁵⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and any implementing measures made thereunder;

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

1. The Member States are hereby authorised to provide, under the conditions laid down in paragraph 2, for exceptions from Article 4(1) of Directive 77/93/EEC, with regard to the prohibitions referred to in Part A, point 15 of Annex III thereto for plants of *Vitis* L., other than fruits, originating in Croatia.

2. In addition to the requirements laid down in Annex I and II of Directive 77/93/EEC in relation to plants of *Vitis* L., the following specific conditions shall be satisfied:

(a) the plants shall be propagating material in the form of dormant bud material of the following varieties:

- Babic,
- Plavac Mali,
- Plavina,
- Debit,
- Kuc,
- Marastina;

(b) the buds shall be intended to be grafted in the Community at premises referred to in (h), onto rootstocks produced in the Community;

(c) the buds intended for the Community shall be:

- harvested in stock nurseries, which are officially registered. The lists of the registered nurseries shall be made available to the Member States making use of the derogation and to the Commission, at the latest by 15 February 1999. These lists shall include the name(s) of the varieties, the number of rows planted with these varieties, the number of plants per row for each of these nurseries, as far as they are deemed suitable for dispatch to the Community in 1999, under the conditions laid down in this Decision,

⁽¹⁾ OJ L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ L 15, 21. 1. 1998, p. 34.

⁽³⁾ OJ L 22, 24. 1. 1997, p. 35.

⁽⁴⁾ OJ L 17, 22. 1. 1998, p. 25.

⁽⁵⁾ OJ L 93, 17. 4. 1968, p. 15.

- properly packed and the packaging made recognisable with a marking, enabling the identification of the registered nursery and the variety,
- accompanied by a phytosanitary certificate issued in Croatia in accordance with Article 7 and 12 of Directive 77/93/EEC, on the basis of the examination laid down therein, in particular freedom from the following harmful organisms:

- *Daktulosphaira vitifoliae* (Fitch),
- *Xylophilus ampelinus* (Panagopoulos) Willemse et al.,
- Grapevine *Flavescence dorée* MLO,
- *Xylella fastidiosa* (Well et Raju),
- *Trechispora brinkmannii* (Bresad.) Rogers,
- Tobacco ringspot virus,
- Tomato ringspot virus,
- Blueberry leaf mottle virus,
- Peach rosette mosaic virus.

The certificate shall state under 'Additional Declaration', the indication 'This consignment meets the conditions laid down in Decision 1999/158/EC';

- (d) the official plant protection organisation of Croatia shall ensure the identity of the buds from the time of harvesting as referred to in (c), first indent, until the time of loading for export to the Community;
- (e) the buds shall be introduced through points of entry situated within the territory of a Member State and designated for the purpose of this derogation by that Member State; these points of entry and the name and address of the responsible official body referred to in Directive 77/93/EEC in charge of each point shall be notified sufficiently in advance by the Member States to the Commission and shall be held available on request to other Member States. In those cases where the introduction into the Community takes place in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State of introduction shall inform and cooperate with the said responsible official bodies of the Member States making use of this derogation to ensure that the provisions of this Decision are complied with;
- (f) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in (a) to (k); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State, without delay, shall convey the details of the notification to the Commission, indicating:

- the type of material,
- the variety and the quantity,
- the declared date of introduction and confirmation of the point of entry,
- the names, addresses and the locations of the premises referred to in (h) where the buds will be grafted and/or where the grafted plants will subsequently be planted.

The importer shall provide details of any changes to the aforementioned advance notification, to the responsible official bodies of their own Member State, preferably as soon as they are known and in any case prior to the time of import, and that Member State, without delay, shall convey the details of the changes to the Commission;

- (g) the inspections including testing, as appropriate, required pursuant to Article 12 of Directive 77/93/EEC and in accordance with provisions laid down in the present Decision shall be made by the responsible official bodies, referred to in the said Directive; of these inspections, the plant health checks shall be carried out by the Member State making use of this derogation and where appropriate, in cooperation with the said bodies of the Member State in which the buds will be grafted. Furthermore during the said plant health check that Member State(s) shall also inspect for all other harmful organisms. Without prejudice to the monitoring referred to in Article 19a(3) second indent, first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in Article 19a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a(5)(c) of that Directive;
- (h) the buds shall be grafted onto rootstocks and the grafted plants subsequently planted, only at premises
 - for which the names, addresses and the locations have been notified by the person who intends to use the buds imported pursuant to this Decision, to the said responsible official bodies of the Member State in which the premises are situated,
 - and
 - officially registered and approved for the purposes of this derogation.

In those cases where the place of grafting or planting is situated in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State making use of this derogation, at the moment of receipt of the aforementioned advance notification from the importer,

shall inform the said responsible official bodies of the Member State in which the buds will be grafted or planted giving the names, addresses and the locations of the premises where the plants will be grafted or planted;

- (i) the said responsible official bodies shall ensure that any bud not used in accordance with (h) shall be destroyed under the control of the said responsible official bodies. Records shall be kept available to the Commission on the numbers of plants destroyed;
- (j) at the premises referred to in (h):
 - the material which has been found free from the harmful organisms referred to in (g) may then be used for grafting and the grafted plants shall be planted and grown in fields belonging to the premises referred to in (h) and shall remain on the premises, until they are moved to a destination outside the Community as referred to in (k),
 - the grafted plants shall be, in the growing period following importation, visually inspected by the said responsible official bodies of the Member State in which the grafted plants are planted, at appropriate times, for the presence of any harmful organism or for signs or symptoms caused by any harmful organism including those of *Daktulosphaira vitifoliae* (Fitch); as a result of such visual inspection any harmful organism having caused such signs or symptoms shall be identified by an appropriate testing procedure,
 - any plant which has not been found free during the said inspections or testing, referred to in the previous indents, from the harmful organisms listed under (c) third indent, or otherwise of quarantine concern, shall be immediately destroyed under control of the said responsible bodies;
- (k) any grafted plant resulting from a successful grafting using the buds referred to in (a) shall be only released as grafted plants in 2000 to a destination outside the Community. The said responsible official bodies shall ensure that any plant not so moved shall be officially destroyed. Records shall be kept available to the Commission on the amounts of successfully grafted plants, of officially destroyed plants and of plants sold as well as on the country of destination of the plants sold.

Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(f), of any use of the authorisation. They shall provide the Commission and the other Member States, before 1 November 1999, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1(2)(j). Furthermore any other Member State in which the buds are grafted onto rootstocks and in which the grafted plants are planted, after the import, shall also provide the Commission and the other Member States, before 1 November 1999, with a detailed technical report of the official examination referred to in Article 1(2)(j).

Article 3

Without prejudice to the provisions laid down in Article 14(3) of Directive 77/93/EEC, the Member States concerned shall notify the Commission and the other Member States of all cases of consignments introduced pursuant to this Decision which do not comply with the conditions laid down herein.

Article 4

Article 1 shall apply during the period between 20 February 1999 and 30 March 1999. The present Decision shall be revoked if it is established that the conditions laid down in Article 1(2) are not sufficient to prevent the introduction of harmful organisms or have not been complied with.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 16 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 18 February 1999

on import licences in respect of beef and veal products originating in Botswana,
Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

(notified under document number C(1999) 374)

(1999/159/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Community,

Having regard to Council Regulation (EC) No 1706/98 of
20 July 1998 on the arrangements applicable to agricul-
tural products and goods resulting from the processing of
agricultural products originating in the African, Carib-
bean and Pacific States (ACP States) and repealing Regula-
tion (EEC) No 715/90 ⁽¹⁾, and in particular Article 30
thereof,

Having regard to Commission Regulation (EC) No 1918/
98 of 9 September 1998 laying down detailed rules for the
application in the beef and veal sector of Council Regula-
tion (EC) No 1706/98 on the arrangements applicable to
agricultural products and certain goods resulting from the
processing of agricultural products originating in the
African, Caribbean and Pacific States and repealing Regu-
lation (EC) No 589/96 ⁽²⁾, and in particular Article 4
thereof,

Whereas Article 1 of Regulation (EC) No 1918/98
provides for the possibility of issuing import licences for
beef and veal products; whereas, however, imports must
take place within the limits of the quantities specified for
each of these exporting non-member countries;

Whereas the applications for import licences submitted
between 1 and 10 February 1999, expressed in terms of
deboned meat, in accordance with Regulation (EC) No
1918/98, do not exceed, in respect of products originating
in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe
and Namibia, the quantities available from those States;
whereas it is therefore possible to issue import licences in
respect of the quantities applied for;

Whereas the quantities in respect of which licences may
be applied for from 1 March 1999 should be fixed within
the scope of the total quantity of 52 100 tonnes;

Whereas this Decision is without prejudice to Council
Directive 72/462/EEC of 12 December 1972 on health
and veterinary inspection problems on importation of
bovine, ovine and caprine animals and swine, fresh meat
or meat products from third countries ⁽³⁾, as last amended
by Directive 97/79/EC ⁽⁴⁾,

HAS ADOPTED THIS DECISION:

Article 1

The following Member States shall issue on 21 February
1999 import licences for beef and veal products,
expressed as deboned meat, originating in certain African,
Caribbean and Pacific States, in respect of the following
quantities and countries of origin:

Germany

— 320,000 tonnes originating in Botswana.

United Kingdom

- 480,000 tonnes originating in Botswana,
- 355,000 tonnes originating in Zimbabwe,
- 850,000 tonnes originating in Namibia,
- 15,000 tonnes originating in Swaziland.

Article 2

Licence applications may be submitted, pursuant to
Article 3(2) of Regulation (EC) No 1918/98, during the
first 10 days of March 1999 for the following quantities of
deboned beef and veal:

- | | |
|---------------|--------------------|
| — Botswana: | 17 946,000 tonnes, |
| — Kenya: | 142,000 tonnes, |
| — Madagascar: | 7 579,000 tonnes, |
| — Swaziland: | 3 333,000 tonnes, |
| — Zimbabwe: | 8 273,000 tonnes, |
| — Namibia: | 11 675,000 tonnes. |

⁽¹⁾ OJ L 215, 1. 8. 1998, p. 12.

⁽²⁾ OJ L 250, 10. 9. 1998, p. 16.

⁽³⁾ OJ L 302, 31. 12. 1972, p. 28.

⁽⁴⁾ OJ L 24, 30. 1. 1998, p. 31.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 18 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 422/1999 of 25 February 1999 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty

(Official Journal of the European Communities L 50 of 26 February 1999)

On page 25, in the Annex under 'Rate of refund' against CN code ex 0402 21 19, point (a):

for: '85,34',

read: '85,94'.
