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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC, ECSC, EURATOM) No 628/2000
of 20 March 2000
amending Regulation (EC, Euratom, ECSC) No 259/68 laying down the Staff Regulations of Officials
of the European Communities and the Conditions of Employment of Other Servants of the
Communities**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the proposal from the Commission presented after consulting the Staff Regulations Committee ⁽¹⁾,

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

Having regard to the opinion of the Court of Justice ⁽³⁾,

Having regard to the opinion of the Court of Auditors ⁽⁴⁾,

Whereas:

- (1) With a view to equal treatment, conference interpreters engaged on behalf of the Community institutions and bodies should be subject to the same legal arrangements.
- (2) All conference interpreters should consequently be engaged as auxiliary staff covered by Title III of the Conditions of Employment of Other Servants of the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph shall be added to Article 78 of the Conditions of Employment of Other Servants of the European Communities:

‘The same conditions of recruitment and remuneration applied to conference interpreters engaged by the European Parliament shall apply to auxiliary staff engaged by the Commission as conference interpreters on behalf of the Community institutions and bodies.’

Article 2

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

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

Done at Brussels, 20 March 2000.

For the Council

The President

J. GAMA

⁽¹⁾ OJ C 110, 21.4.1999, p. 13.

⁽²⁾ Opinion delivered on 7 May 1999 (OJ C 279, 1.10.199, p. 496).

⁽³⁾ Opinion delivered on 12 May 1999.

⁽⁴⁾ Opinion delivered on 25 March 1999.

COMMISSION REGULATION (EC) No 629/2000
of 24 March 2000
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:

- (1) 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.

- (2) 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 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 24 March 2000 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	154,0
	204	119,9
	999	136,9
0707 00 05	052	109,0
	068	130,6
	628	146,6
	999	128,7
0709 10 00	220	309,8
	999	309,8
0709 90 70	052	111,3
	204	52,6
	628	113,7
	999	92,5
0805 10 10, 0805 10 30, 0805 10 50	052	67,1
	204	37,8
	212	40,5
	220	28,2
	600	41,1
	624	53,6
	999	44,7
0805 30 10	052	33,7
	220	71,3
	600	65,2
	999	56,7
0808 10 20, 0808 10 50, 0808 10 90	039	90,1
	388	84,5
	400	83,1
	404	85,6
	508	81,7
	512	81,4
	528	91,8
	720	56,6
	999	81,8
	052	77,4
0808 20 50	388	67,4
	512	70,0
	528	75,0
	720	71,3
	999	72,2

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 630/2000
of 24 March 2000**

**fixing the maximum export refund on wholly milled long grain rice in connection with the
invitation to tender issued in Regulation (EC) No 2176/1999**

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:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2176/1999 ⁽³⁾.
- (2) 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. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) 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.

(4) 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 2176/1999 is hereby fixed on the basis of the tenders submitted from 17 to 23 March 2000 at 269,00 EUR/t.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 267, 15.10.1999, p. 4.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 631/2000**of 24 March 2000****concerning tenders submitted in response to the invitation to tender for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 2177/1999**

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 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾, as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9 (1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2177/1999 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95

and on the basis of the tenders submitted, to make no award.

- (3) On the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed.
- (4) 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 20 to 23 March 2000 in response to the invitation to tender referred to in Regulation (EC) No 2177/1999 for the subsidy on exports to Réunion of husked long grain rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 267, 15.10.1999, p. 7.

**COMMISSION REGULATION (EC) No 632/2000
of 24 March 2000**

**fixing the maximum export refund on wholly milled medium grain and long grain A rice in
connection with the invitation to tender issued in Regulation (EC) No 2178/1999**

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 last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2178/1999 ⁽³⁾.
- (2) 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. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) 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.

(4) 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 grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in European Regulation (EC) No 2178/1999 is hereby fixed on the basis of the tenders submitted from 17 to 23 March 2000 at 180,00 EUR/t.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 267, 15.10.1999, p. 10.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 633/2000
of 24 March 2000**

**fixing the maximum export refund on wholly milled round grain, medium grain and long grain A
rice in connection with the invitation to tender issued in Regulation (EC) No 2179/1999**

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:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2179/1999 ⁽³⁾.
- (2) 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. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) 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.

(4) 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 grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2179/1999 is hereby fixed on the basis of the tenders submitted from 17 to 23 March 2000 at 160,00 EUR/t.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 267, 15.10.1999, p. 13.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 634/2000
of 24 March 2000**

**fixing the maximum export refund on wholly milled round grain rice in connection with the
invitation to tender issued in Regulation (EC) No 2180/1999**

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 last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2180/1999 ⁽³⁾.
- (2) 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. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) 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.

(4) 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 round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2180/1999 is hereby fixed on the basis of the tenders submitted from 17 to 23 March 2000 at 163,00 EUR/t.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

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 267, 15.10.1999, p. 16.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 635/2000
of 24 March 2000**

amending Regulation (EC) No 2571/97 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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Articles 10 and 15 thereof,

Whereas:

- (1) Article 3(a) of Commission Regulation (EC) No 2571/97 ⁽²⁾, as last amended by Regulation (EC) No 494/1999 ⁽³⁾, provides for the possibility of using the tracers referred to in Annex II to the Regulation in the products in question to permit checks on the final use to which they are put. In view of the fact that certain tracers have not been used under these arrangements for quite some time and that Annex II to the Regulation provides for alternative tracers, the tracers concerned should be

deleted, thus permitting simplification of checks. Furthermore, the tracers in question are undergoing evaluation in the light of new scientific knowledge.

- (2) 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

Point V of Annex II to Regulation (EC) No 2571/97 is deleted.

Article 2

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

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

Done at Brussels, 24 March 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 350, 20.12.1997, p. 3.

⁽³⁾ OJ L 59, 6.3.1999, p. 17.

COMMISSION REGULATION (EC) No 636/2000
of 24 March 2000
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 298/2000 ⁽²⁾, and in particular Article 5(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 470/2000 ⁽³⁾ fixes the indicative quantities for system B export licences other than those sought in the context of food aid.
- (2) 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 will shortly be exceeded. This overrun will prejudice the

proper working of the export refund scheme in the fruit and vegetables sector.

- (3) To avoid this situation, applications for system B licences for apples exported after 24 March 2000 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 submitted pursuant to Article 1 of Regulation (EC) No 470/2000, export declarations for which are accepted after 24 March 2000 and before 17 May 2000, are hereby rejected.

Article 2

This Regulation shall enter into force on 25 March 2000.

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

Done at Brussels, 24 March 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15.11.1996, p. 12.

⁽²⁾ OJ L 34, 9.2.2000, p. 16.

⁽³⁾ OJ L 57, 2.3.2000, p. 12.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 March 2000

concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Swiss Confederation, of the other part, on Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation

(2000/239/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) An Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Swiss Confederation, of the other part, concerning Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation ⁽¹⁾, has been negotiated on a reciprocal basis in order to improve the trading arrangements and solve certain related problems.
- (2) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (3) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Swiss Confederation, of the other part, concerning Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The measures necessary for the implementation of this Decision shall be adopted in accordance with the management procedure referred to in Article 3(2).

Article 3

1. The Commission shall be assisted by the management committee on horizontal questions concerning trade in processed agricultural products not listed in Annex II referred to in Article 15 of Council Regulation (EC) No 3448/93 ⁽³⁾.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at one month.
3. The Committee shall adopt its rules of procedure.

Article 4

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

Article 5

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

Done at Brussels, 13 March 2000.

For the Council

The President

J. PINA MOURA

⁽¹⁾ OJ L 300, 31.12.1972, p. 189.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 318, 20.12.1993, p. 18, Regulation as last amended by Regulation (EC) No 2491/98 (OJ L 309, 19.11.1998, p. 28).

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

**between the European Community, of the one part, and the Swiss Confederation, of the other part,
concerning Protocol 2 to the Agreement between the European Economic Community and the
Swiss Confederation**

A. Letter from the Community

Brussels, 17 March 2000

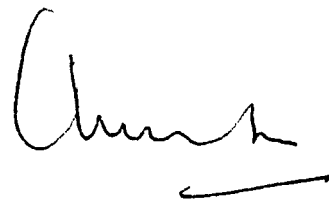
Sir,

I have the honour to confirm that the European Community is in agreement with the 'Agreed minutes' attached to this letter concerning a number of changes to the import arrangements applied by the Community and the Swiss Confederation respectively to processed agricultural products, certain of which are covered by Protocol 2 to the 1972 Free Trade Agreement. These changes precede an overall revision of Protocol 2 to be initiated shortly.

I should be obliged if you would confirm that the Government of the Swiss Confederation is in agreement with the contents of this letter.

Please accept, Sir, the assurance of my highest consideration.

For the European Community



AGREED MINUTES**I. Introduction**

A number of meetings were held between European Commission officials and officials of the Swiss Confederation following a significant increase in exports of lemonade from Switzerland into the European Community.

After these meetings, it was agreed to submit for approval to their respective authorities a number of changes to the import arrangements applied by the Community and the Swiss Confederation respectively to processed agricultural products, certain of which are covered by Protocol 2 to the 1972 free trade agreement.

These changes will enter into force on 1 April 2000. As far as Switzerland is concerned, pending internal procedures for the ratification of this agreement, it will be applied provisionally from 1 April 2000.

As regards soft drinks, the two parties may decide, before the end of the second year following the entry into force of this agreement, to extend the measures laid down therein on the basis of the provisions of the Free Trade Agreement.

II. Swiss import arrangements

1. The Swiss Confederation will open the following annual tariff quotas for the European Community:

Swiss tariff codes	Description	Quotas	Applicable rate of duty
0505.1090	Feathers of a kind used for stuffing and down, other than raw, washed.	12 t	Exempt
2202.1000	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured.	35 million l	Exempt
2202.9090	Other non-alcoholic beverages.	13 million l	Exempt
2402.2020	Cigarettes containing tobacco, with a maximum unit weight of 1,35 g	242 t	Exempt
2403.1000	Smoking tobacco, whether or not containing tobacco substitutes in any proportion.	99 t	Exempt

2. The following year, the quotas will be increased by 10 %.

III. Community import arrangements

1. The Community will open the following annual quotas for Switzerland:

CN code	Description	Quotas	Applicable rate of duty
1302 20 10	Pectic substances, pectinates and pectates: dry	605 t	Exempt
2101 11 11	Extracts, essences and concentrates with a coffee-based dry matter content of 95 % or more by weight	1 870 t	Exempt

CN code	Description	Quotas	Applicable rate of duty
2101 20 20	Extracts, essences and concentrates of tea or maté	132 t	Exempt
2106 90 92	Food preparations/other containing no milk fats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	935 t	Exempt

2. The following year, the quotas will be increased by 10 %.

3. Soft drinks

- the Community will open an annual duty-exempt quota for the Swiss Confederation, for goods classified within CN Codes 2202 10 00 (waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured) and ex 2202 90 10 (other drinks containing sugar), for the following quantity: 75 million l,
- outside this quota allocation, the import duty will be 9,1 %.
- in the following years, if the quota has been used up, it will be increased by 10 % on an annual basis. If the quota has not been used up, soft drinks referred to in the first indent will again be governed by a free trade arrangement.

IV. As regards rules of origin, the provisions of Protocol 3 of the Switzerland-EC Free Trade Agreement will apply.

B. Letter from Switzerland

Brussels, 17 March 2000

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to confirm that the European Community is in agreement with the "Agreed minutes" attached to this letter concerning a number of changes to the import arrangements applied by the Community and the Swiss Confederation respectively to processed agricultural products, certain of which are covered by Protocol 2 to the 1972 Free Trade Agreement. These changes precede an overall revision of Protocol 2 to be initiated shortly.

I should be obliged if you would confirm that the Government of the Swiss Confederation is in agreement with the contents of this letter.'

I have the honour to confirm that my Government is in agreement with the contents of your letter and the proposed date of entry into force of the amendments.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Swiss Confederation



A handwritten signature in black ink, appearing to read 'D. M. B. L.', is positioned above a horizontal line.

COMMISSION

COMMISSION DECISION

of 22 December 1999

concerning an aid scheme implemented by Spain to finance operating capital in the agricultural sector in Extremadura

(notified under document number C(1999) 5201)

(Only the Spanish text is authentic)

(2000/240/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

The parties concerned having been given notice, in accordance with the first subparagraph of Article 88(2) of the Treaty, to submit their comments ⁽¹⁾,

Whereas:

scheme. In its letter, the Commission gave notice to Spain to send its comments.

(5) The Commission Decision to open the procedure was published in the *Official Journal of the European Communities* ⁽³⁾. The Commission gave notice to interested parties to submit their comments on the aid scheme.

(6) Spain submitted its comments by letter dated 19 July 1999.

(7) The Commission received no comments on the scheme from interested parties.

I. PROCEDURE

(1) Government of Extremadura Decree No 35/1993 of 13 April 1993 on the financing of operating capital in the agricultural sector in Extremadura was published in the *Diario Oficial de Extremadura* ⁽²⁾.

(2) The Commission, not having received notification of the State aid from the Spanish authorities in accordance with Article 88(3) of the Treaty, sent a letter on 8 February 1999 requesting confirmation of the existence of the aid and its entry into force.

(3) By letter dated 26 February 1999, the Spanish Permanent Representation to the European Union sent the Commission the information it had requested in its letter dated 8 February 1999.

(4) By letter dated 4 June 1999, the Commission informed Spain of its decision to open the procedure provided for in Article 88(2) of the Treaty with respect to the aid

II. DETAILED DESCRIPTION OF THE AID MEASURE

(8) Decree No 35/1993 provides for financing to meet capital requirements for a single marketing year in order to develop agriculture and food processing in Extremadura.

(9) The beneficiaries are farmers, agricultural cooperatives and other associations in Extremadura and processing undertakings in Extremadura signing contracts with agricultural and livestock holdings in the Autonomous Community for raw materials for industrial processing.

(10) The aid takes the form of an interest-rate rebate for loans lasting less than one year, the amount of which varies depending on the beneficiary.

⁽¹⁾ OJ C 225, 7.8.1999, p. 6.

⁽²⁾ *Diario Oficial de Extremadura* No 45, 15.4.1993, p. 1027.

⁽³⁾ See footnote 1.

(11) An interest-rate rebate of up to five percentage points is provided for farmers practising farming as their main occupation and of up to four percentage points for other farmers; where there is Community or State part-financing, the beneficiary must pay a minimum interest rate of 6 % (4 % for farmers practising farming as their main occupation).

(12) In the case of cooperatives and other associations, an interest-rate rebate of up to one percentage point is provided for the purchase of inputs (with an additional 0,5 percentage points for the purchase of certified plants and seeds and a further 0,5 percentage points for the purchase of straight fertilisers) and of up to five percentage points in the case of loans to provide operating capital for seasonal payments to members.

(13) In the case of processing undertakings, an interest-rate rebate of up to five percentage points is provided for loans for the purchase of raw materials under contracts with farmers and for loans to provide general operating capital, in the sectors laid down each year by an Autonomous Community order.

(14) The Government of Extremadura Ministry of Agriculture and Trade Order of 29 September 1998 ⁽⁴⁾ lays down the following products for the 1997/98 marketing year: dried figs and fig paste, peppers for the production of ground red pepper, Iberian swine, olives for the production of olive oil and tomatoes for dehydration other than powdered tomatoes. An interest-rate rebate of five percentage points is provided for, for a maximum of one year. The interest rate for loans is the MIBOR 365-day rate plus one percentage point.

(15) Ceilings are placed on the aid; for farmers these are maximum amounts per hectare, product and animal, for cooperatives the average value of inputs purchased in the last three years plus 10 % and for processing undertakings the value of the loan.

(16) The aid scheme has an annual budget of ESP 107 million and is of indefinite duration.

(17) In its letter dated 4 June 1999, the Commission informed Spain that the aid scheme (with the exception of the aid for farmers and for cooperatives and other associations before 30 June 1998) did not appear to fulfil the conditions for any of the derogations provided

for in Article 87(3) of the Treaty. It notified Spain that the aid for farmers and for cooperatives and other associations before 30 June 1998 was eligible for the derogation provided for in Article 87(3)(c) since it was aid for the development of the sector.

III. COMMENTS SUBMITTED BY SPAIN

(18) Spain considers the aid scheme to be a non-discriminatory general scheme, providing reduced-rate seasonal loans to the whole agricultural sector in Extremadura. The scheme is applied each year by means of an order laying down the disadvantaged sectors and subjecting payment of the aid to the conclusion by the buyer and the seller of a contract approved by the Ministry of Agriculture guaranteeing producers a minimum price above the market price and processing undertakings supplies of raw material meeting minimum quality requirements.

(19) Priority is given to sectors producing products with a local or regional identity or with particular characteristics conferred by their form of production or processing. The nature of the aid means that it does not affect free competition in Community trade in other products, being of purely regional scope.

(20) Application of Decree No 35/1993 on the financing of operating capital in the agricultural sector in Extremadura has been suspended and is due to be repealed and replaced by another more in accord with the Commission Communication on State aids: subsidised short-term loans in agriculture (*crédits de gestion*) ⁽⁵⁾ ⁽⁶⁾.

IV. ASSESSMENT OF THE AID

Article 87(1) of the Treaty

(21) Article 36 of the Treaty lays down that the rules on competition set out in the Treaty apply to production of and trade in agricultural products only to the extent determined by the Council.

(22) In the case of aid for agricultural products listed in Annex I to the Treaty not covered by a common organisation of the market (potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork), Council Regulation No 26 applying certain rules of competition to production of and trade in agricultural products ⁽⁷⁾, as amended by Regulation No 49 ⁽⁸⁾, applies. The only provisions of the Treaty which apply are Article 88(1) and the first sentence of Article 88(3), and the Commission can therefore only formulate comments.

⁽⁵⁾ OJ C 44, 16.2.1996, p. 2.

⁽⁶⁾ By letter dated 4 July 1997, the Commission informed the Member States of its decision to suspend application of that Communication and, by letter dated 19 December 1997, informed them that it would reapply it from 30 June 1998.

⁽⁷⁾ OJ 30, 20.4.1962, p. 993/62.

⁽⁸⁾ OJ 53, 1.7.1962, p. 1571/62.

⁽⁴⁾ Diario Oficial de Extremadura No 114, 6.10.1998, p. 7412.

- (23) All the other products listed in Annex I to the Treaty are covered by common organisations of the market and the Regulations laying down those organisations expressly provide for the application of Articles 87, 88 and 89 of the Treaty to the production and marketing of those products.
- (24) Under Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.
- (25) There is a significant volume of trade in the products concerned between Spain and the rest of the Community: Spain imports 10 290 178 tonnes from the other Member States and exports 12 648 802 tonnes to them. The value of this trade is EUR 6 810 477 000 and EUR 10 308 134 000 respectively ⁽⁹⁾.
- (26) The measures concerned could therefore affect trade in agricultural products between the Member States, since that trade is affected by aid which favours operators active in one Member State over those in others. The measures have a direct and immediate effect on the production costs of undertakings producing and processing agricultural products in Spain. They therefore give them an economic advantage over undertakings which do not have access to comparable aid in other Member States. They therefore distort or threaten to distort competition.
- (27) In the light of the above, the aid in question must be considered to be State aid fulfilling the criteria laid down in Article 87(1) of the Treaty.
- (31) The Commission takes the view that the aid in question was not designed as regional aid for new investment or to create employment, nor to provide horizontal compensation for shortcomings in infrastructure suffered by all the region's undertakings, but as operating aid for the agricultural sector. Consequently, it is clearly sectoral aid which must be assessed in the light of Article 87(3)(c).
- (32) Article 87(3)(c) provides that aid to facilitate the development of certain economic activities or of certain economic areas may be considered compatible with the common market provided that such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (33) The aid scheme must be assessed, in particular, in the light of that provision.
- (34) The aid takes the form of an interest-rate rebate for seasonal loans lasting less than one year. The Commission authorises this type of aid as a measure to promote the development of the sector, i.e. covered by Article 87(3)(c), provided that it complies with its Communication on State aids: subsidised short-term loans in agriculture (*crédits de gestion*).
- (35) The aid must be granted to all operators in agriculture on a non-discriminatory basis, irrespective of the agricultural activity for which the short-term loan is required. However, certain activities or certain operators may be excluded provided that the Member State is able to demonstrate that all such instances of exclusion are justified on the grounds that the problems of obtaining short-term loans faced by those excluded are inherently less significant than in the rest of the agricultural economy.

Possible derogations under Article 87 of the Treaty

- (28) Derogations may, however, be granted from the principle of incompatibility laid down in Article 87(1) of the Treaty.
- (29) In the case in question, the derogations provided for in Article 87(2) clearly do not apply. Neither have they been claimed by the Spanish authorities.
- (30) The derogations provided for in Article 87(3) of the Treaty must be interpreted strictly when examining a regional or sectoral aid scheme or any individual application of general aid schemes. In particular, they can be granted only where the Commission concludes that the aid is necessary to achieve one of the objectives of the derogations. Allowing any other aid to benefit from those derogations would permit damage to trade between Member States and distortion of competition without this being justified by the Community interest and would allow operators from certain Member States to obtain undue advantage.
- (36) The aid must be limited to what is strictly necessary to compensate for the disadvantages suffered by agriculture. A Member State wishing to grant subsidised loans must quantify the disadvantages using the method it considers most appropriate but always remaining within the limits of the gap between the interest rate paid by a typical agricultural operator and that paid in the rest of the economy of the Member State concerned for short-term loans of a similar amount, not linked with investments. By letter dated 19 December 1997, the Commission informed the Member States that the only possible interpretation was that the interest-rate rebate from public resources for short-term loans in agriculture could not exceed that difference.

⁽⁹⁾ Source: Eurostat 1998.

- (37) The amount of subsidised loans to any beneficiary must not exceed the cash flow requirements arising from the fact that production costs are incurred before income from output sales is received.
- (38) Until the Commission reapplied the provisions of the above Communication on 30 June 1998 ⁽¹⁰⁾, it authorised, in accordance with its usual practice, aid in the form of an interest-rate rebate for short-term operating loans provided that the loan was for a maximum of one year and that the aid was not granted for a single product or on a one-off basis ⁽¹¹⁾.
- (39) Therefore, in assessing the above Decree, a distinction must be made between the period before 30 June 1998 and that following.
- (40) Similarly, a distinction must be made in the period before 30 June 1998 between beneficiaries.
- (41) The aid granted to farmers, agricultural cooperatives and other associations meets the criteria laid down by the Commission for this type of aid. More particularly, it involved aid in the form of an interest-rate rebate on operating loans for up to one year and was not granted for a single product or on a one-off basis. As a consequence, in its letter dated 4 June 1999, the Commission informed Spain that the aid was eligible for the derogation provided for in Article 87(3)(c) as aid to promote the development of the sector.
- (42) The aid granted to processing undertakings consisted of an interest-rate rebate on operating loans for up to one year and was not granted for a single product or on a one-off basis and therefore fulfilled the criteria applied by the Commission to this type of aid before 30 June 1998; however, the aid is limited to undertakings signing contracts with agricultural and livestock holdings in Extremadura for raw materials for industrial processing. This requirement constitutes a restriction on the free movement of goods between the Member States and a breach of Article 28 of the Treaty in that processors using raw materials from other Member States are ineligible for the aid. It constitutes a restriction on the introduction of products from other Member States, which will not be purchased by processing undertakings in Extremadura eligible for the aid. The aid could therefore adversely affect trading conditions to an extent contrary to the Community interest and is consequently not eligible for any of the derogations provided for in Article 87(3) of the Treaty.
- (43) After 30 June 1998, the Commission Communication on State aids: subsidised short-term loans in agriculture (*crédits de gestion*) applies to the aid.
- (44) The aid granted does not fulfil the criteria laid down in that Communication, in particular, that the aid must be granted to all operators in agriculture on a non-discriminatory basis, that it must be limited to what is strictly necessary to compensate for the disadvantages affecting agriculture and that the amount of subsidised loans granted to any beneficiary must not exceed the cash-flow requirements arising from the fact that production costs are incurred before income from output sales is received.
- (45) The aid is not granted to all operators in agriculture on a non-discriminatory basis. The Spanish authorities affirm that the aid scheme is implemented each year by means of an order stipulating the sectors considered to be disadvantaged compared with the rest and which are eligible for aid.
- (46) The aid is not limited to what is strictly necessary to compensate for the disadvantages affecting agriculture. On the contrary, the Decree fixes the interest-rate rebate on seasonal loans, of between 0,5 and 5 points, on a discretionary basis according to the beneficiary.
- (47) The aid scheme provides for no measures to ensure that the subsidised loans granted to a beneficiary do not exceed the cash-flow requirements arising from the fact that production costs are incurred before income from output sales is received.
- (48) In addition, in the case of the aid for agricultural processing undertakings in Extremadura, what is stated in recital 42 regarding the requirement to sign contracts for raw materials with holdings in the region also applies.
- (49) The aid must therefore be considered to be operating aid incompatible with the common market. Such aid has no lasting effect on the development of the sector concerned, since its immediate effects disappear with the measure itself. (See the judgement of the Court of First Instance of the European Communities of 8 June 1995 in Case T-459/93, *Siemens SA v Commission* ⁽¹²⁾). On the other hand, a direct consequence of such aid is an improvement in the production and marketing opportunities of the operators concerned compared with other operators not receiving comparable aid (both within the country and in the other Member States).
- (50) Consequently, with the exception of the aid granted before 30 June 1998 to farmers, agricultural cooperatives and other associations, this aid scheme is ineligible for any of the derogations provided for in Article 87(3) of the Treaty.

⁽¹⁰⁾ See footnote 5.

⁽¹¹⁾ Precedents: aid N603/93, N377/91, N29/91, N394/92, NN90/93, N109/94, N768/93, N423/93, N218/93, N108/92, N598/93 and N644/92.

⁽¹²⁾ [1995] ECR II-1675.

(51) Moreover, account must be taken of the fact that this aid for agricultural products listed in Annex I to the Treaty (with the exception of that for potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork) is for products subject to a common organisation of the market and that the powers of the Member States to intervene in the operation of those organisations are limited, their being the exclusive responsibility of the Community. The Court of Justice has consistently held that the common organisations of the market must be considered comprehensive and exhaustive systems which preclude the Member States from adopting derogations or measures which conflict with them (see, *inter alia*, the judgement of 26 June 1979 in Case 177/78, *Pigs and Bacon v McCarren* ⁽¹³⁾). The aid must therefore be considered to infringe the common organisations of the market and, therefore, Community rules.

Conclusion

(52) In the light of the above and the applicable Community rules, the Commission takes the view that, as regards the derogations provided for in Article 87(3)(a) and (c) for aid to promote or facilitate the economic development of certain regions or the development of certain activities, the aid granted before 30 June 1998 to processing undertakings and that granted after that date to farmers, agricultural cooperatives and other associations could adversely affect trading conditions to an extent contrary to the common interest. In particular, the aid granted after 30 June 1998 does not comply with the Commission Communication on State aids: subsidised short-term loans in agriculture (*crédits de gestion*).

(53) The aid (with the exception of that for potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork) must therefore be considered to infringe the common organisations of the market. In addition, the aid for processing undertakings infringes Article 28 of the Treaty.

(54) The aid must therefore be considered to be operating aid incompatible with the common market and an infringement of Community rules and is consequently ineligible for any of the derogations provided for in Article 87(3) of the Treaty.

V. CONCLUSIONS

(55) Since the aid in question was not notified to the Commission in accordance with Article 88(3) of the Treaty, its grant was illegal, given that it was granted before the Commission could decide on its compatibility with the common market.

(56) The aid granted before 30 June 1998 to processing undertakings and that granted after that date (with the exception of that for potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork), for the reasons given above, is incompatible with the common market, since it is covered by Article 87(1) of the Treaty but is not eligible for any of the derogations provided for in paragraphs 2 and 3 of that Article.

(57) Where aid is incompatible with the common market, the Commission must make use of the possibility offered by the judgement of the Court of Justice of 12 July 1973 in Case 70/72, *Commission v Germany* ⁽¹⁴⁾, confirmed by the judgements of 24 February 1987 in Case 310/85, *Deufil v Commission* ⁽¹⁵⁾, and of 20 September 1990 in Case C-5/89, *Commission v Germany* ⁽¹⁶⁾, and require the Member State to recover all the aid granted illegally from the recipients. The requirement to recover aid is also laid down in Article 14(1) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁷⁾ (now Article 88). Recovery is necessary in order to re-establish the previous situation by abolishing all the financial advantages enjoyed unduly by the beneficiaries since the aid was granted.

(58) The Commission recommends that the Spanish Government abolish the aid for potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork.

(59) The other aid granted before 30 June 1998 to processing undertakings and that granted after that date to farmers, agricultural cooperatives and other associations and to processing undertakings must be repaid in full.

(60) Repayment must be made in accordance with Spanish law. The amounts to be repaid must include interest from the date the aid was granted to its actual recovery. The interest must be calculated on the basis of the commercial rate, taking as a reference the rate used to calculate the grant equivalent of regional aid ⁽¹⁸⁾.

(61) This Decision does not prejudice the conclusions the Commission may draw, if necessary, for the financing of the common agricultural policy by the European Agricultural Guidance and Guarantee Fund (EAGGF),

⁽¹³⁾ [1979] ECR 2161.

⁽¹⁴⁾ [1973] ECR 813.

⁽¹⁵⁾ [1987] ECR 901.

⁽¹⁶⁾ [1990] ECR I-3437.

⁽¹⁷⁾ OJ L 83, 27.3.1999, p. 1.

⁽¹⁸⁾ OJ C 74, 10.3.1998, p. 9.

HAS ADOPTED THIS DECISION:

Article 1

The aid granted before 30 June 1998 to processing undertakings and that granted after that date to farmers, agricultural cooperatives and other associations and to processing undertakings under the State aid scheme implemented by Spain by means of Government of Extremadura Decree No 35/1993 of 13 April 1993 on the financing of operating capital in the agricultural sector in Extremadura, with the exception of that for potatoes other than for starch, horsemeat, honey, coffee, vinous alcohol, spirit vinegar and cork, is incompatible with the common market.

Article 2

Spain shall abolish the aid scheme referred to in Article 1.

Article 3

1. Spain shall adopt all measures necessary to recover from the beneficiaries all aid referred to in Article 1 which has been granted illegally.

2. Recovery shall be immediate and in accordance with the procedures laid down in Spanish law, provided that these permit the immediate and effective implementation of this Decision. The amounts to be repaid must include interest from the date the aid was made available to the beneficiaries to its actual recovery. The interest must be calculated on the basis of the reference rate used to calculate the grant equivalent of regional aid.

Article 4

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

Article 5

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 22 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION
of 16 March 2000
on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

(notified under document number C(2000) 742)

(2000/241/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 agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (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 Regulation (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 Regulation (EC) No 589/96 ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) Article 1 of Regulation (EC) No 1918/98 provides for the possibility of issuing import licences for beef and veal products. However, imports must take place within the limits of the quantities specified for each of these exporting non-member countries.
- (2) The applications for import licences submitted between 1 and 10 March 2000, expressed in terms of boned 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. It is therefore possible to issue import licences in respect of the quantities applied for.
- (3) The quantities in respect of which licences may be applied for from 1 April 2000 should be fixed within the scope of the total quantity of 52 100 tonnes.
- (4) This Decision is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon 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 March 2000 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Germany:

- 280 tonnes originating in Botswana,
- 125 tonnes originating in Namibia.

United Kingdom:

- 300 tonnes originating in Botswana,
- 550 tonnes originating in Namibia,
- 80 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 April 2000 for the following quantities of boned beef and veal:

- | | |
|---------------|----------------|
| — Botswana: | 17 236 tonnes, |
| — Kenya: | 142 tonnes, |
| — Madagascar: | 7 579 tonnes, |
| — Swaziland: | 3 198 tonnes, |
| — Zimbabwe: | 7 720 tonnes, |
| — Namibia: | 11 724 tonnes. |

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 16 March 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽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.

COMMISSION DECISION

of 24 March 2000

terminating the anti-dumping proceeding on imports of ferro-chrome with a carbon content by weight of maximum 0,5 % (low carbon ferro-chrome) originating in Russia and Kazakhstan

(notified under document number C(2000) 798)

(2000/242/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 905/98 ⁽²⁾, and in particular Articles 9 and 11(2) thereof,

Having consulted the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

- (1) By Regulation (EEC) No 2717/93 ⁽³⁾ the Council imposed a definitive anti-dumping duty of ECU 0,31 per kg net on imports of ferro-chrome with a carbon content by weight of maximum 0,5 % originating in Kazakhstan, Russia and Ukraine.

2. Request for a review

- (2) Following the publication, in April 1998, of a notice of the impending expiry of the measures in force ⁽⁴⁾, the Commission received a request for a review of the anti-dumping measures applicable to imports of low carbon ferro-chrome (hereinafter referred to as 'LCFC') originating in Kazakhstan and Russia, lodged by the Comité de Liaison des Industries de Ferro-Alliages (CLIFA or Euro-alliages) on behalf of the only Community producer of the product concerned (hereinafter the 'applicant Community producer').
- (3) The request was based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry. The evidence contained in the request was considered sufficient to justify the opening of a review investigation. On 2 October 1998 the

Commission, after consulting the Advisory Committee, announced the initiation of an investigation ⁽⁵⁾ pursuant to Article 11(2) of Regulation (EC) No 384/96, (hereinafter referred to as 'the basic Regulation').

3. Investigation

- (4) The Commission officially advised the applicant Community producer, the exporting producers and importers known to be concerned as well as their associations, the representatives of the exporting countries, the end-users known to be concerned and their associations of the initiation of the review.

Interested parties were given the opportunity to make their views in writing and to request a hearing within the time limit set in the notice of initiation.

- (5) The Commission sent questionnaires to all parties known to be concerned. In addition, a producer in Zimbabwe, which was chosen as the analogue country, was likewise advised of the initiation and sent a questionnaire. The Commission received questionnaire replies from the applicant Community producer, all three Russian exporting producers, the Zimbabwean producer, one related importer, two unrelated importers and three users of the product concerned. One association of users made its views known in writing and two further users provided certain information, even though not replying to the questionnaires. No replies were received from the Kazakh producers. All parties which so requested were granted a hearing.
- (6) The Commission sought and verified all information it deemed necessary for the purposes of a determination of the likelihood of continuation or recurrence of injurious dumping and of Community interest. Verification visits were carried out at the premises of the following companies:

Community producer

— Elektrowerk Weisweiler GmbH, Eschweiler-Weisweiler, Germany

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ L 246, 2.10.1993, p. 1.

⁽⁴⁾ OJ C 100, 2.4.1998, p. 6.

⁽⁵⁾ OJ C 303, 2.10.1998, p. 4.

Producer in the analogue country

— Zimbabwe Alloys Limited, Harare, Zimbabwe

Unrelated importers

— Nococarbon, Rotterdam, the Netherlands

— Syncret BV, Rotterdam, the Netherlands

Users

— AB Sandvik Steel, Sandviken, Sweden

— Acciaierie Venete SPA, Padova, Italy

— ALZ NV, Genk, Belgium

- (7) The investigation of the likelihood of continuation or recurrence of dumping was based on information pertaining to the period from 1 January 1998 to 30 September 1998 (hereinafter referred to as the 'IP').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (8) The product under consideration is ferro-chrome with a carbon content in weight of maximum 0,5 % (hereinafter 'LCFC'). It is an alloy of iron and chromium produced by reducing chromium ores with silicon and/or carbon in an electric furnace. It is produced in a two-stage (sometimes three-stage) process and the chromium content of the alloy varies according to the type of ores used. The carbon content is determined by the materials added during the second stage of the production process and its percentage may vary significantly. There are two grades of LCFC: normal grade with a carbon content of more than 0,05 % but less or equal to 0,5 % and special grade with a carbon content of less or equal to 0,05 %.
- (9) The prices of LCFC are normally expressed in a value per kg of chromium contained in the alloy and vary according to the carbon content: the lower the carbon content the higher the price.
- (10) The product under consideration is mainly used for the production of high-tensile structural and heat and acid resistant steel containing a high chromium content. It is also used to adjust the chromium content in stainless steel and its use is necessary for steel where, for plant reasons, removal of carbon is not possible during steel manufacturing. These uses are independent of precise carbon contents, so that products with different grades of carbon content are to a large extent interchangeable.

2. Like product

- (11) The investigation has confirmed that the product manufactured by the applicant Community producer and sold on the Community market is alike in all respects to the LCFC imported from the countries concerned. It should

therefore be considered a like product within the meaning of Article 1(4) of the basic Regulation.

- (12) Furthermore, the investigation has shown that the LCFC produced in Zimbabwe and sold on the Zimbabwean market is alike in all respects to the LCFC exported to the Community from the countries concerned and the LCFC produced by the Community industry. It should therefore also be considered as a like product within the meaning of Article 1(4) of the basic Regulation.

C. CONTINUATION OF DUMPING

1. Preliminary remarks

- (13) In order to ascertain whether there were grounds for a likelihood of continuation and/or recurrence of dumping, the Commission first verified whether dumping had continued during the IP.

2. Russia

2.1. Analogue country

- (14) In establishing normal value, account was taken of the fact that Zimbabwe was envisaged in the notice of initiation of this review as an appropriate market economy third country. One importer suggested Turkey as an alternative market economy third country. The Commission sought cooperation in Turkey and sent a questionnaire to the only known producer. However, the sole Turkish producer of LCFC, although it declared its willingness to cooperate, did not finally provide sufficient information for the determination of normal value.
- (15) Therefore, it was decided to maintain Zimbabwe as an appropriate market economy third country because the production was sizeable, the production process was similar to that practised in Russia, the company produced the two grades involved in the investigation, the domestic sales were representative as compared to the imports concerned to the EC and Zimbabwe was used as an analogue market in the original investigation.

2.2. Normal value

- (16) In order to establish normal value, in a first step, it was determined that the total volume of domestic sales of the product under consideration was representative in accordance with Article 2(2) of the basic Regulation, i.e. that these sales represented more than 5 % of the sales volume of the product under consideration exported from Russia to the Community.
- (17) In a second step, it was then found that for each grade of the product under consideration, domestic sales of the corresponding grade in Zimbabwe were representative, as they constituted 5 % or more of the volume of exports of the product under consideration originating in Russia.

- (18) Furthermore, it was determined that all sales had been made in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation.

2.3. Export price

- (19) Export sales of LCFC to the Community from Russia fell sharply following the imposition of the anti-dumping duties, to a nearly insignificant level.
- (20) In the responses to the questionnaires, only one Russian exporter declared some export sales of special grade LCFC to the Community. Furthermore, it was found that the Russian exporting producers sold to unrelated non-Russian traders and consequently did not know the final destination of their exports. In light of the fact that Eurostat data appeared more complete as they showed imports of both grades of LCFC, it was considered appropriate to use these data for the determination of the export price. It should be noted that the information gathered from the one Russian exporting producer who had declared exports to the Community confirmed the price level determined by Eurostat.

2.4. Comparison

- (21) The weighted average normal value for each grade was compared to the weighted average export price of the corresponding grade of LCFC, in accordance with Article 2(11) of the basic Regulation, at fob exporting country port level.
- (22) For the purpose of ensuring a fair comparison between normal value and export price, account was taken of differences in factors, which were claimed and demonstrated to affect comparability in accordance with Article 2(10) of the basic Regulation. In this respect, adjustments were made for differences in the carbon and chromium content. Adjustments also were made for inland and ocean freight, insurance handling, loading, ancillary and other costs.

2.5. Dumping margin

- (23) The comparison between the normal value and the export price for both grades of LCFC did not reveal the existence of dumping.

3. Kazakhstan

- (24) The information available to the Commission did not indicate that Kazakhstan had exported to the Community market during the IP. As a result, no dumping determination has been undertaken.

D. LIKELIHOOD OF RECURRENCE OF DUMPING

- (25) Further to the previous analysis demonstrating that dumping did not occur during the IP, the Commission examined the likelihood of recurrence of dumping, should the measures applicable to the imports in question be removed.

1. Russia

- (26) Exports to third countries were assessed, in particular to the United States of America, where the Russian exporting producers export significant quantities of LCFC. On the basis of the information supplied by the Russian exporting producers and official USA statistics, it was found that the Russian export prices to the USA, adjusted to ensure a fair price comparison (including adjustments for differences in carbon and chromium content), were higher than the normal value in Zimbabwe compared on an fob exporting country port basis and for both grades.
- (27) In addition, the Commission examined the likely pricing strategy which may be followed by the Russian exporting producers in case of a resumption of imports towards the EC market if measures were removed. In this respect, it appeared that the Russian exporting producers have a significant spare capacity which could eventually be used and the resulting production may be directed to the Community by reason of geographical proximity and the need to acquire foreign currency. However, as shown above, the small quantities of Russian LCFC exports during the IP have been found not to be dumped. In these circumstances, in particular in light of the present applicable significant anti-dumping duty, it would appear unlikely that, following the removal of these duties, the Russian exporting producers would lower their export prices to a degree that they would be dumped. More to the contrary, the Russian exporting producers would have scope for increases in their export prices.
- (28) Indeed, if any resumption of Russian exports were to take place, it is, given the quality of the Russian products, more likely to be in competition with imports from Turkey, Zimbabwe, South Africa and the People's Republic of China, which cover the middle segment of the market, rather than the upper segment where the Community industry is present. The prevailing prices in this segment are on average higher than the normal value and no dumping would be likely to occur at this level on sales aimed at this segment.

2. Kazakhstan

- (29) The available information for Kazakhstan indicates the existence of massive capacities of chromium ore reserves and important LCFC production capacities.

- (30) Nevertheless, the potential for LCFC production is strongly reduced because of outdated equipment and the failure to privatise, restructure and modernise the industry. Moreover, the bulk of the remaining production concentrates on medium and high carbon ferro-chrome, which are not subject to the present proceeding. For sales of the product concerned, the available price information from US import statistics regarding Kazakh exports to the US market indicates that the likelihood of recurrence of dumping on the Community market is rather remote.

It, therefore, appears unlikely that the Kazakh industry would resume imports to the EC in significant quantities and that injurious dumping would reoccur, were the measures allowed to lapse.

3. Conclusion

- (31) On the basis of the above facts and considerations, it is concluded that dumping is unlikely to reoccur for both Russia and Kazakhstan, should the measures in force be removed.

E. CONTINUATION AND RECURRENCE OF INJURY AND COMMUNITY INTEREST

- (32) In view of the conclusion concerning dumping, it was not considered necessary to develop the aspects relating to the likelihood of continuation and/or recurrence of injury and the Community interest arising from the investigation.

F. CONCLUSION

- (33) Given the above findings, it was concluded that the proceeding concerning imports of LCFC originating in Russia and Kazakhstan should be terminated and that the anti-dumping duty in force should be allowed to lapse.

- (34) All parties concerned were informed of the essential facts and considerations on the basis of which the termination of the existing measures would be based. They were granted a period within which to make representations subsequent to the disclosure.

- (35) Representations received further to the disclosure did not however provide any new elements which could affect the above analysis.

- (36) In view of the findings set out above, the Commission therefore considers that the anti-dumping measures imposed by Regulation (EEC) No 2717/93 and currently in force should be repealed for Kazakhstan and Russia,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping review proceeding concerning imports in the Community of ferro-chrome with a carbon content by weight of maximum 0,5 % falling within CN codes 7202 49 10 and 7202 49 50 and originating in Kazakhstan and Russia is hereby terminated.

Done at Brussels, 24 March 2000.

For the Commission

Pascal LAMY

Member of the Commission