

Official Journal

of the European Communities

ISSN 0378-6978

L 267

Volume 43

20 October 2000

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 2313/2000 of 17 October 2000 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cathode-ray colour television picture tubes originating in India and the Republic of Korea, and terminating the anti-dumping proceeding in respect of imports originating in Lithuania, Malaysia and the People's Republic of China** 1
- ★ **Council Regulation (EC) No 2314/2000 of 17 October 2000 amending Regulation (EC) No 763/2000 extending the definitive anti-dumping duty, imposed by Regulation (EC) No 584/96 on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China to imports of certain tube and pipe fittings, of iron or steel, consigned from Taiwan, whether declared as originating in Taiwan or not, and terminating the investigation in respect of imports from three Taiwanese exporters** 15
- ★ **Council Regulation (EC) No 2315/2000 of 17 October 2000 amending Regulation (EC) No 2402/98 imposing a definitive anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China** 17
- Commission Regulation (EC) No 2316/2000 of 19 October 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables 21
- Commission Regulation (EC) No 2317/2000 of 19 October 2000 opening an invitation to tender for the refund for the export of barley to all third countries except the United States and Canada 23
- Commission Regulation (EC) No 2318/2000 of 19 October 2000 opening tendering procedure No 38/2000 EC for the sale of wine alcohol for new industrial uses 26
- Commission Regulation (EC) No 2319/2000 of 19 October 2000 fixing the minimum selling prices for beef put up for sale under the invitation to tender referred to in Regulation (EC) No 1999/2000 28
- Commission Regulation (EC) No 2320/2000 of 19 October 2000 fixing the export refunds on cereals and on wheat or rye flour, groats and meal 30

Price: EUR 19,50

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

Commission Regulation (EC) No 2321/2000 of 19 October 2000 fixing the export refunds on products processed from cereals and rice	32
Commission Regulation (EC) No 2322/2000 of 19 October 2000 fixing the export refunds on cereal-based compound feedingstuffs	35
Commission Regulation (EC) No 2323/2000 of 19 October 2000 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1701/2000	37
Commission Regulation (EC) No 2324/2000 of 19 October 2000 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2014/2000	38
Commission Regulation (EC) No 2325/2000 of 19 October 2000 fixing the maximum export refund on rye in connection with the invitation to tender issued in Regulation (EC) No 1740/2000	39
Commission Regulation (EC) No 2326/2000 of 19 October 2000 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 2097/2000	40
Commission Regulation (EC) No 2327/2000 of 19 October 2000 fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty	41
Commission Regulation (EC) No 2328/2000 of 19 October 2000 fixing production refunds on cereals and rice	45

II Acts whose publication is not obligatory

Council

2000/630/EC:

- ★ **Council Decision of 28 September 2000 concerning the conclusion of an Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth** 46

Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth 47

Information relating to the entry into force of the Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth 52

Commission

2000/631/EC:

- ★ **Commission Decision of 16 May 2000 on State aid granted by Spain to Asociación General Agraria Mallorquina SA (AGAMA) ⁽¹⁾ (notified under document number C(2000) 1401)** 53

2000/632/EC:

- ★ **Commission Decision of 16 October 2000 on additional Community financial aid towards the eradication of classical swine fever in Belgium in 1997 and 1998 ⁽¹⁾ (notified under document number C(2000) 3011)** 62

2000/633/EC, ECSC, Euratom:

- ★ **Commission Decision of 17 October 2000 amending its Rules of Procedure** 63

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 2313/2000
of 17 October 2000**

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cathode-ray colour television picture tubes originating in India and the Republic of Korea, and terminating the anti-dumping proceeding in respect of imports originating in Lithuania, Malaysia and the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Provisional measures

- (1) By Commission Regulation (EC) No 837/2000 ⁽²⁾ ('the provisional Regulation') provisional anti-dumping duties were imposed on imports into the Community of cathode-ray colour television picture tubes with a diagonal measurement of the screen (i.e. the active part of the picture tube measured in a straight line) exceeding 33 cm but not exceeding 38 cm, with a screen width/height ratio less than 1,5 and with a pitch (i.e. the gap between two lines of the same colour at the centre of the screen) of not less than 0,4 mm (CPTs), originating in India, Malaysia, the People's Republic of China (China) and the Republic of Korea (Korea), falling within CN code ex 8540 11 11 (TARIC code 8540 11 11 94).
- (2) Considering that the dumping margin found in the case of Lithuania was below the 2 % threshold set in Article 9(3) of Regulation (EC) No 384/96 ('the basic Regulation'), no provisional measures were imposed in respect of that country.

2. Subsequent procedure

- (3) Following the imposition of provisional anti-dumping duties, parties received disclosure of facts and considerations on which the provisional Regulation was based. Some parties submitted comments in writing. All interested parties who so requested were granted an opportunity to be heard by the Commission. Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection, at the level of this duty, of amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to this disclosure.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

⁽²⁾ Commission Regulation (EC) No 837/2000 of 19 April 2000 imposing a provisional anti-dumping duty on imports of certain cathode-ray colour television picture tubes originating in India, Malaysia, the People's Republic of China and the Republic of Korea (OJ L 102, 27.4.2000, p. 15).

- (4) The oral and written comments submitted by the interested parties were considered and, where appropriate, taken into account for the definitive findings.
- (5) The Commission continued to seek all information it deemed necessary for the purpose of its definitive findings.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

- (6) As the only comment received under this heading following disclosure of the provisional findings concerned the product manufactured by the Chinese exporting producer, and as it is considered appropriate to terminate the proceeding with respect to that country (see recital 85), the contents and conclusions of recitals 7 to 10 of the provisional Regulation are hereby confirmed.

C. DUMPING

1. Lithuania

1.1. Normal value

- (7) The complainant alleged that the depreciation and R & D costs reported by the sole Lithuanian exporting producer were too low. However, it did not provide any evidence in support of this claim. The costs reported were none the less reviewed and found not to be understated. The argument raised by the complainant was therefore rejected and the findings set out in recital 35 of the provisional Regulation are therefore confirmed.

1.2. Export price and comparison

- (8) No comments were made under these headings. The findings set out in recitals 36 and 37 of the provisional Regulation are therefore confirmed.

1.3. Dumping margin

- (9) The dumping margin (1,3 %) established in recital 38 of the provisional Regulation is therefore confirmed as *de minimis*.

2. Malaysia

2.1. Normal value and export price

- (10) As no new information was submitted, the findings set out in recitals 11 to 13 of the provisional Regulation are confirmed.

2.2. Comparison

- (11) One of the two Malaysian exporting producers claimed that an adjustment to normal value should be made with regard to after-sales costs. This claim was examined and it was found appropriate to grant an adjustment in this respect. Moreover, it was considered more appropriate to use, in respect of the comparison between the normal value and the export price of one exporting producer, the same methodology (i.e. monthly average exchange rates) already applied at the provisional stage in respect of the other exporting producer.
- (12) With the exception of the above, the findings set out in recital 14 of the provisional Regulation are confirmed.

2.3. Dumping margin

- (13) As a result of the changes referred to at recital 11, the dumping margins were definitively established as follows:
 - Samsung Electron Devices (M) SDN.BHD: 0,7 %,
 - Chungwha Picture Tubes (M) SDN.BHD: 4,5 %.

- (14) With regard to imports originating in Malaysia, it should be noted that the two exporting producers above represent the entirety of exports originating in this country. In order to assess whether, on a countrywide basis, the dumping margin was *de minimis*, a weighted average countrywide dumping margin was established. It was found that this margin was *de minimis* because of the weight of Samsung's exports as compared to Chungwha's exports. In view of the countrywide *de minimis* dumping margin, Chungwha's low dumping margin and the overall low impact of imports from Malaysia, it has been concluded that the investigation should be terminated without the adoption of protective measures with regard to imports originating in Malaysia, in accordance with Article 9(3) of the basic Regulation.

3. China

- (15) After having examined the comments made by interested parties, it is confirmed that dumping in respect of China exists at significant levels. However, in view of the conclusions reached at recital 35 on the *de minimis* import volume originating in China, and in view of the termination of the proceeding with respect to China (see recital 85) it was not deemed necessary to set out the determination concerning dumping.

4. India

- (16) It is recalled that no exporting producer from India cooperated in the investigation and, therefore, the findings had to be made on the basis of facts available.

4.1. Normal value

- (17) No comments were received under this heading. The calculation of normal value was revised, in order to reflect the modifications referred to at recital 11.

4.2. Export price and comparison

- (18) No comments were received under these headings. The findings set out in recitals 18 and 19 of the provisional Regulation are therefore confirmed.

4.3. Dumping margin

- (19) As a result of the changes to normal value referred to at recital 17, the dumping margin was definitively established as follows:
— all companies: 20,5 %.

5. Korea

- (20) It is recalled that no exporting producer from Korea cooperated in the investigation and, therefore, the findings had to be made on the basis of facts available.

5.1. Normal value

- (21) No comments were received in this respect. The calculation of normal value was revised, in order to reflect the modifications referred to at recital 11.

5.2. Export price and comparison

- (22) No comments were received under these headings. The findings set out in recitals 23 and 24 of the provisional Regulation are therefore confirmed.

5.3. Dumping margin

- (23) As a result of the changes to normal value referred to at recital 21, the dumping margin was definitively established as follows:
— all companies: 19,7 %.

D. DEFINITION OF THE COMMUNITY INDUSTRY

- (24) Since no comments were received regarding the definition of the Community industry, the conclusions of recitals 39 and 40 of the provisional Regulation are hereby confirmed.

E. INJURY

1. Consumption of CPTs in the Community

- (25) After the imposition of provisional measures the data on consumption as established in the provisional Regulation had to be amended to ensure in particular that the available data for companies located in the Community and related to exporting producers in the countries concerned were included. The new findings confirmed the decline in consumption of CPTs in the Community (see recital 45 of the provisional Regulation) as follows:

Table 1: Consumption of CPTs in the Community

	1995	1996	1997	1998	IP
Units	6 717 805	5 882 421	4 992 089	4 954 292	4 704 257
Index 1995 = 100	100	88	74	74	70
Index 1997 = 100			100	99	94

Source: Data submitted by the Community industry and by Community operators related to exporting producers; Eurostat.

- (26) Overall, the Community market decreased by 30 % in terms of volume during the period considered. It should be noted that the main decrease took place in the period 1995 to 1997 (–26 %). However, as can likewise be seen from the above table, consumption in the Community gained stability as from 1997. Indeed, consumption remained at the same level in 1997 and 1998 followed by a slight decrease of 5 % during the IP.
- (27) It is recalled that the main decrease of Community consumption is attributable to the fact, that in the first part of the period considered, part of the production of 14-inch colour television sets ('CTVs') in the Community was transferred to certain central and east European countries (CEECs) (see recital 46 of the provisional Regulation). The effects of the relocation process are examined in recitals 63 to 65 below.

2. Imports of CPTs into the Community from the countries concerned

2.1. Lithuania and Malaysia: *de minimis* dumping margin

- (28) The investigation confirmed that the margin of dumping established for Lithuania was *de minimis*. In addition, as explained in recital 14, the weighted average margin of dumping established for Malaysia, at the definitive stage was also found to be below the *de minimis* threshold.

2.2. China: negligible imports

- (29) One producer located in China claimed to be the only producer in the country and to have sold a negligible volume of CPTs for export to the Community during the investigation period. In addition, it claimed that the discrepancy between its sales volume for export to the Community and the Eurostat import statistics was due to the fact that the CN code used for CPTs in these statistics also included other CPTs with dimensions above and below 14-inch, i.e. these not covered by this proceeding. In this context, it pointed out that the Community industry had a joint venture with a company located in China and that this might also explain the above discrepancy.

- (30) It also claimed that its actual sales volume for export to the Community was below the *de minimis* threshold, on the basis that the level of consumption established by the Commission at provisional stage (see recitals 41 to 44 of the provisional Regulation) was highly imprecise, and requested that the investigation should be terminated with respect to China.
- (31) In order to examine the above claims, the Commission examined the Chinese export statistics, requested information from the European Union Delegation in China and investigated data submitted by the Community industry.
- (32) According to the Chinese statistics the export volume to the Community was even higher than that reported in the Eurostat statistics. However, this was explained by the fact that the relevant statistics covered different types of CPTs including those not covered by this proceeding.
- (33) The Community industry provided information on the joint venture it had in China. On this basis, it was found that this joint venture did not produce products covered by the CN code concerned but other display components. As regards the discrepancy between the Eurostat import statistics and the import figures declared by the Chinese exporting producer, it should be noted that, as mentioned above, the facts available do not exclude that CPTs other than the product concerned were exported from China to the Community.
- (34) Furthermore, the investigation did not identify any other Chinese exporter of the product concerned than the abovementioned company.
- (35) Based on these considerations, and taking into account the fact (a) that the volume of imports from China has significantly decreased during the period considered (83 %), (b) that the CN code for the product concerned also includes products not covered by the present investigation and that therefore the Eurostat import statistics may not necessarily accurately reflect the imports of the product concerned from China, (c) that the volume of imports declared by the Chinese producer in its questionnaire response was below the *de minimis* threshold in Article 5(7) of the basic Regulation and (d) that there was no information to suggest that the above Chinese producer was not the only Chinese manufacturer to sell the product concerned for export to the Community, it was found appropriate to consider that the market share held by Chinese imports was below the *de minimis* threshold.

2.3. India and Korea

- (36) Consequently, given the conclusions reached in recital 28 concerning Lithuania and Malaysia, and recital 35 concerning China, only the imports from the remaining two countries, India and Korea, were analysed in the remaining injury assessment and are referred to as imports from the 'countries concerned' hereafter.

2.4. Cumulative assessment of imports from countries concerned

2.4.1. Volume of imports

- (37) The import volumes originating in the countries concerned developed as follows.

Table 2: Import volumes from the countries concerned in the Community

	1995	1996	1997	1998	IP
Total units	806 188	318 471	126 559	483 361	494 254
Index 1995 = 100	100	40	16	60	61
Index 1997 = 100			100	382	391

Source: Eurostat.

- (38) Overall, the volume of imports from the countries concerned decreased by 39 % during the period considered. The above table shows that dumped imports, while decreasing between 1995 and 1997 (–84 %), rose again significantly as from 1997 towards the IP (+291 %).

2.4.2. Market share of imports

- (39) In view of the revised consumption figures the market share held by dumped imports from the countries concerned in the Community developed as shown below:

Table 3: Market share of imports from the countries concerned in the Community

	1995	1996	1997	1998	IP
	12,0 %	5,4 %	2,5 %	9,8 %	10,5 %
<i>Index 1995 = 100</i>	100	45	21	81	88
<i>Index 1997 = 100</i>			100	385	414

Source: Questionnaire replies of the Community industry and Eurostat.

- (40) The table shows that while the market share decreased during the period 1995 to 1997 by 9,5 percentage points, it increased by 8 percentage points in the period 1997 to the IP.

2.4.3. Average price of imports

- (41) It is recalled that according to the conclusions reached in recital 55 of the provisional Regulation the average import price for CPT's originating in India, Malaysia, China and Korea already showed a declining trend (–11 % in the period considered and –19 % in the period 1997 to the IP). After the exclusion of Malaysia and China it was found that the price developments were more pronounced:

Table 4: Average import prices from the countries concerned in the Community

	1995	1996	1997	1998	IP
ECU/unit	39,36	42,15	45,27	34,85	31,85
<i>Index 1995 = 100</i>	100	107	115	89	81
<i>Index 1997 = 100</i>			100	77	70

Source: Eurostat.

From 1995 up to the IP, the sales prices charged by the exporting producers concerned on the Community market decreased by 19 %. The decreasing trend is even more severe looking at the development between 1997 and the IP when the average import price fell by 30 %. This situation occurred together with the 291 % increase in import volume.

In addition, between 1997 and the IP the average import price decreased much more (–30 %) than the average Community industry price (–19 %).

2.5. Price undercutting

- (42) Since the above analysis of the imports concerned has no impact on price undercutting, the conclusions in recital 59 of the provisional Regulation are confirmed in respect of India and Korea. The results of the comparison showed that the average price undercutting margins, expressed as a percentage of the Community industry's average selling prices, were 14,7 % for India and 10,8 % for Korea.

2.6. Conclusion

- (43) Based on the facts and considerations, it was found that the volume of dumped imports originating in the countries concerned developed in two steps. Between 1995 and 1997, imports decreased significantly. However, during the period 1997 to the IP they recovered and increased by 291 %. As regards market share a similar trend was established. The market share of imports from the countries concerned decreased during the period 1995 to 1997 by 9,5 percentage points, but it increased by 8 percentage points in the period 1997 to the IP. Similarly, import prices, which increased by 15 % until 1997 subsequently decreased by 30 %.

3. Economic situation of the Community industry

- (44) No comments were received regarding the provisional injury analysis which indicated that most of the economic indicators pertaining to the Community industry followed a significant decreasing trend (recitals 60 to 69 and 72 to 79 of the provisional Regulation). However, in particular in view of the change in the Community consumption, the findings with respect to the situation of the Community industry are outlined below.

It should be noted that the decreasing trend of the economic indicators pertaining to the Community industry was particularly significant in the period 1997 to the IP.

As stated in recital 60 of the provisional Regulation, given that only one producer constitutes the Community industry, the data relating to the Community industry have been indexed in order to preserve the confidentiality of the data submitted in accordance with Article 19 of the basic Regulation. It should also be noted that all indicators explicitly listed in Article 3(5) of the basic Regulation were examined. Those which were found relevant are set out below.

3.1. Production

- (45) It is recalled that the Community industry CPTs production increased by 9 % during the period considered (see recital 64 of the provisional Regulation). It should also be pointed out that in a time when CTVs production was relocated to certain CEECs, the Community industry maintained its CPT production in the Community.

3.2. Sales volume, average sales prices and profitability in the Community

- (46) It is recalled that the Community industry lost 55 % of sales volume during the period considered and 26 % during the period from 1997 to the IP (see recital 66 of the provisional Regulation). During the same period, consumption decreased by 30 % and 6 % respectively. It is stressed that the main decrease in consumption took place in the period 1995 to 1997 (-26 %), at the time when part of the production of CTVs in the Community has been partly transferred to CEECs, whereas from 1997 to IP consumption remained by and large stable. Consequently the fall in the Community industry's sales was much higher than the decrease in consumption.
- (47) As indicated in recital 68 of the provisional Regulation, the investigation showed that prices charged by the Community industry to unrelated customers decreased by 21 % during the period considered but the main decrease occurred between 1997 and the IP (-19 %), as prices were stable in the period 1995 to 1997. Thus the main price decrease of the Community industry occurred at a time when consumption was relatively stable (decrease of 6 % in the period 1997 to the IP) while prices of the Community industry were stable when consumption significantly decreased (-26 % in the period 1995 to 1997).

- (48) In addition, profitability of the Community industry was negative. As indicated in recital 75 of the provisional Regulation around 4 percentage points of profit were lost during the period considered.

3.3. Market share in the Community

- (49) On the basis of the revised consumption figures the market share held by the Community industry developed as follows.

Table 5: Market share held by Community industry

	1995	1996	1997	1998	IP
<i>Index 1995 = 100</i>	100	107	83	64	65
<i>Index 1997 = 100</i>			100	77	78

Source: Questionnaire reply of the Community industry and Eurostat.

- (50) The Community industry lost 15,5 percentage points of market share during the period considered instead of 6 percentage points as provisionally established (see recital 71 of the provisional Regulation). The main decrease in market share (–7,9 percentage points) occurred in the period 1997 to the IP when dumped imports surged (+291 %) and gained considerable market share (+8 percentage points).

4. Conclusion on injury

- (51) It is recalled that, during the period considered, sales prices of the Community industry decreased by 21 %, profitability was negative (loss of around 4 percentage points of profit), sales volume decreased by 55 % (see recital 81 of the provisional Regulation) and the loss of its market share was 15,5 percentage points. The average price of dumped imports, which has been consistently lower than that of the Community industry during the period considered, was around 12 % lower than the Community industry's average price during the IP.
- (52) The volume of dumped imports decreased significantly in the period 1995 to 1997. It then increased significantly by 291 % in the period 1997 to the IP. This increase coincided with a 6 % drop in consumption between 1997 and the IP. With regard to the average import price it should be noted that in the period 1995 to 1997 an increase of 15 % was established, whereas between 1997 and the IP average import prices decreased by 30 %.
- (53) A more detailed investigation confirmed that the economic situation of the Community industry deteriorated especially in the period between 1997 and the IP when the surge of dumped imports took place, and over which time the Community industry's production decreased by 15 % (see recital 64 of the provisional Regulation), its sales prices by 19 % and profitability was likewise significantly reduced, employment decreased by 13 %.
- (54) In the light of the foregoing, in particular the decrease in sales prices and profitability, the conclusion that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation is confirmed.

F. CAUSATION

1. Introduction

- (55) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether the material injury suffered by the Community industry had been caused by the dumped imports from the countries concerned.

- (56) The effect of known factors other than the dumped imports was also examined in order to ensure that injury caused by these other factors is not wrongly attributed to the dumped imports from the countries concerned.

2. Effect of the dumped imports

- (57) After the exclusion of Malaysia and China it was found that the volume of dumped imports increased considerably during the period 1997 to the IP (+291 %). Their market share increased by 8 percentage points. The recovery of imports coincided with a time of stable consumption. At the same time a decrease in the Community industry's sales (-26 %) and market share (-7,9 percentage points) took place.
- (58) The prices charged by the countries concerned in the Community market had decreased by 19 % during the period considered. The most significant decrease took place between 1997 and the IP (-30 %). The Community industry's prices decreased by 21 % during the period considered, the main decrease taking place in the period 1997 to IP (-19 %). The price undercutting found during the IP was around 12 % on average. This led to a deterioration of the profitability of the Community industry reaching losses as high as 4 % of turnover.
- (59) Based on the above, there is a clear coincidence in time, in particular as from 1997, between the deterioration of the situation of the Community industry and the surge of low-priced dumped imports from the countries concerned. Indeed, when faced with high volumes of dumped imports originating in the countries concerned, the Community industry lost sales volume and market share and had thus no choice but to follow the fall in prices caused by the dumped imports.
- (60) The above facts and considerations demonstrate that low-priced dumped imports had a significant negative impact on the economic situation of the Community industry, in particular on market share, sales volume, sales prices and profitability and have caused material injury.

3. Development of consumption

- (61) It has been argued that injury to the Community industry was mainly caused by a dramatic decrease of consumption as a result of a generally declining market. Indeed, the investigation showed that consumption decreased during the period considered. The Community market decreased by 30 % in terms of volume during the period considered and by 6 % from 1997 up to the IP.
- (62) However, a more detailed investigation has revealed that the injury suffered by the Community industry is not the result of a generally declining market. It was found that what appeared to show a declining market was the result of relocation of the production of CTVs to certain CEECs (see recitals 63 to 65). As the Community consumption of CTVs, the downstream product incorporating CPTs, even increased during the period considered (see recitals 66 and 67), such a development of consumption should not be associated with the decline of prices. Finally it should be noted that most of the economic indicators pertaining to the Community industry started to follow a significant decreasing trend at a time when consumption had stabilised (see recitals 69 to 71), i.e. since 1997.

3.1. Effects of relocation

- (63) According to the information available, the relocation process for the production of CTVs to certain CEECs took place in the first part of the period considered. The effect of this relocation was that less CPTs were used in the Community and more CPTs were exported to accommodate the needs of these new production sites.

- (64) From this it can be concluded that the decrease in Community consumption of CPTs did not actually point to a general decrease in demand for the product concerned with the resulting negative effect on sales prices but merely a shift in the geographical location of the users concerned. Whereas the relocation of CTV manufacturers to the CEECs may explain to a large extent the decrease in CPTs consumption in the Community, its effect has not been a general decrease in the demand for the product.
- (65) Therefore, it was concluded that the deterioration in sales prices observed in the investigation on the Community market, in particular as from 1997, and the deterioration in the economic situation of the Community industry cannot be explained by a general weakness in the overall market for the product concerned.

3.2. Consumption of CTVs in the Community

- (66) In view of the above, and in order to have a complete view and understanding of the decrease in the Community consumption for CPTs during the period considered, it was examined how the consumption for CTVs developed during the period from 1995 to 1998. In fact, since CPTs are used in the production of CTVs, the analysis of Community consumption for CTVs makes the analysis of the Community CPT market more complete.

Table 6: Consumption of CTVs in the Community

	1995	1996	1997	1998	IP
Units	8 292 391	8 070 930	8 342 555	9 276 425	Not available
Index	100	97	101	111	

Source: Market research data for CTVs und Eurostat.

- (67) The table clearly shows that Community demand for CTVs increased during the period considered and in particular in 1997 and 1998.
- (68) From the above the conclusion is drawn that the negative development in Community CPT consumption is not the result of a general declining demand for CTVs, since demand increased by around 11 % from 1995 up to 1998. Therefore, the relocation cannot hide the fact that the demand for CTVs continued to grow in the Community indicating that the product concerned is not obsolete.

3.3. Development of consumption as from 1997

- (69) As shown in Table 1 and as explained in recital 26 the most significant decrease in Community CPT consumption took place in the period 1995 to 1997 (-26 %). However, a rather stable trend of consumption was observed thereafter.
- (70) A more detailed analysis has revealed that prices of the Community industry were stable when consumption significantly decreased (-26 % in the period 1995 to 1997) and that the main price decrease of the Community industry occurred at a time when consumption was relatively stable (decrease of 6 % in the period 1997 to the IP). Furthermore the economic situation of the Community particularly deteriorated in the period 1997 to the IP, when the surge of dumped imports took place (+291 % in import volume and 8 percentage points in market share) and sales by the Community industry fell by 26 % and it lost 7,9 percentage points of its market share. In this period the average unit price of CPTs sold by the Community industry to unrelated customers decreased by 19 %, production by 15 % and profitability by around 4 percentage points. Finally, it should be noted that the cost of production of the Community industry did not increase during the period of decreasing sales. On the contrary, there was a reduction of cost of production by more than 10 % between 1997 and the IP.

- (71) It is concluded that the development in Community CPT consumption cannot explain the deterioration of the economic situation of the Community industry and the significant increase in both volume of imports and market share of CPT imports from the countries concerned, in particular in the period from 1997 up to the IP.

4. Imports into the Community from other third countries

- (72) The total in the table below includes the imports from all countries other than India and Korea.

Table 7: Imports from other third countries

	1995	1996	1997	1998	IP
Lithuania	438 051	549 112	357 202	408 607	373 510
Malaysia	742 235	500 531	271 838	525 015	544 397
Singapore	678 752	814 216	984 267	729 387	480 032
Other	1 096 695	802 426	997 232	676 018	467 133
Total other third countries	2 955 733	2 666 285	2 610 539	2 339 027	1 865 072
<i>Index 1995 = 100</i>	100	90	88	79	63
<i>Index 1997 = 100</i>			100	90	71

Source: Eurostat.

During the IP, Lithuania, Malaysia and Singapore were the largest exporters to the Community within this group. As indicated in recital 35, the imports from China were below the *de minimis* threshold.

- (73) The total volume of imports from other third countries decreased by 37 % during the period considered whereas consumption decreased by 30 %. In the period from 1997 to the IP, these imports decreased by 29 % whereas consumption only decreased by 6 %.
- (74) The investigation has shown that during the IP prices charged by most of the operators located in other third countries on the Community were higher than those charged by the countries concerned on the Community market. The development of these prices, according to Eurostat, was the following.

Tabel 8: Import prices

	1995	1996	1997	1998	IP
	(ECU/unit)				
Lithuania	34,97	36,96	38,88	35,40	27,36
Malaysia	44,59	41,68	45,65	43,92	35,53
Singapore	43,61	41,18	42,63	41,78	40,35
Average import prices	41,46	42,32	42,98	39,94	37,54
<i>Index 1995 = 100</i>	100	102	104	96	91
<i>Index 1997 = 100</i>			100	93	87

Source: Eurostat.

- (75) Table 8 shows that import prices from Singapore were above the level of those of the Community industry during the IP and that CPT's prices varied significantly among other third countries. Import prices from Malaysia were comparable to those charged by the Community industry but those charged by exporting producers in Lithuania were lower. On this basis, it cannot completely be excluded that imports from certain third countries have had a negative impact on the economic situation of the Community.

5. Conclusion on causation

- (76) In conclusion, it cannot be excluded that factors other than the dumped imports from the countries concerned, in particular imports from Lithuania, may have contributed to the injury suffered by the Community industry. However, these factors are not such as to break the causal link between the injury established and the effects of the dumped imports concerned, in particular in light of their market share.
- (77) This is clearly shown by the substantial negative developments in the economic situation of the Community industry in particular from 1997 up to the IP. At that time the surge of imports from the countries concerned took place (+291 %) and the Community industry sales volume fell by 26 %. In this period the Community industry lost 7,9 percentage points of its market share (the countries concerned gained 8 percentage points), its average price decreased by 19 %, production by 15 % and profitability by around 4 percentage points. Furthermore, significant price undercutting was found during the IP.
- (78) The behaviour of the exporting producers from the countries concerned had material negative consequences on the situation of the Community industry. It is therefore confirmed that these imports, taken in isolation, have caused material injury to the Community industry.

G, COMMUNITY INTEREST

1. Interest of the Community industry

- (79) It should be noted that despite the abovementioned relocation of CTV production, there is still a significant production of CPTs in the Community. Indeed, the increase of CTV demand points to the fact that the product concerned is not an obsolete product. It should be noted that the Community industry is viable as can be seen from its rationalisation processes. The Community industry rationalised and improved its productivity in recent years, in a successful attempt to lower its cost of production and to enhance its competitiveness on the market. It is considered that in the absence of anti-dumping measures the Community industry's prices will continue to decrease further. This could entail a closure of the CPT activity in the Community and thus reduce employment in the Community.

2. Impact on importers and users

- (80) Since no comments were received after publication of the provisional Regulation concerning any potential disadvantage that the anti-dumping measures could bring to the business of importers and users, the conclusions of recitals 108 to 110 of the provisional Regulation are confirmed.

3. Conclusion

- (81) On the basis of the above facts it was concluded, that there were no compelling reasons against the imposition of anti-dumping measures concerning imports of the product concerned from India and Korea.

H. DEFINITIVE MEASURES

- (82) In view of the conclusions reached regarding dumping, injury, causation and Community interest, it is considered that definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Community industry by dumped imports from India and Korea.

1. Injury elimination level

- (83) The injury elimination level was calculated using the same methodology as explained in recital 116 of the provisional Regulation. A non-injurious level of prices was determined which would cover the Community industry's cost of production and allow a reasonable profit to be obtained in the absence of dumped imports from the countries concerned.

2. Form and level of the definitive duty

- (84) In accordance with Article 9(4) of the basic Regulation, as the injury margins were higher than the dumping margins found for all the exporting producers concerned, the definitive duty should be set at the level of the latter margins.

3. Termination of the proceeding

- (85) In view of the findings on imports originating in Lithuania, Malaysia (*de minimis* margins of dumping) and China (*de minimis* market share) the proceeding with respect to these countries should be terminated.

I. COLLECTION AND RELEASE OF THE PROVISIONAL DUTY

- (86) In view of the magnitude of the dumping margins found for the exporting producers in India and Korea, and in light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duty under Regulation (EC) No 837/2000 should be definitively collected to the extent of the amount of definitive duties imposed.
- (87) In view of the termination of the proceeding with respect to imports originating in Malaysia and China the amounts secured by way of the provisional anti-dumping duty on imports originating in these countries under Regulation (EC) No 837/2000 should be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of cathode-ray colour-television picture tubes with a diagonal measurement of the screen (i.e. the active part of the picture tube measured in a straight line) exceeding 33 cm but not exceeding 38 cm, with a screen width/height ratio less than 1,5, and with a pitch (i.e. the gap between two lines of the same colour at the centre of the screen) of not less than 0,4 mm, originating in India and the Republic of Korea, falling within CN code ex 8540 11 11 (TARIC code 8540 11 11 94).

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty shall be as follows:

Country	Rate of duty (%)
India	20,5
Republic of Korea	19,7

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The proceeding concerning imports of cathode-ray colour-television picture tubes as defined under Article 1(1), originating in Lithuania, Malaysia and the People's Republic of China shall be terminated.

Article 3

1. The amounts secured by way of the provisional anti-dumping duty on imports originating in India and the Republic of Korea under Regulation (EC) No 837/2000 shall be collected at the rate of the duty definitively imposed by this Regulation. Amounts secured in excess of the rate of the definitive anti-dumping duty shall be released.
2. The amounts secured by way of the provisional anti-dumping duty on imports originating in Malaysia and the People's Republic of China under Regulation (EC) No 837/2000 shall be released.

Article 4

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

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

Done at Luxembourg, 17 October 2000.

For the Council

The President

L. FABIUS

**COUNCIL REGULATION (EC) No 2314/2000
of 17 October 2000**

amending Regulation (EC) No 763/2000 extending the definitive anti-dumping duty, imposed by Regulation (EC) No 584/96 on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China to imports of certain tube and pipe fittings, of iron or steel, consigned from Taiwan, whether declared as originating in Taiwan or not, and terminating the investigation in respect of imports from three Taiwanese exporters

THE COUNCIL OF THE EUROPEAN UNION,

producers, irrespective of the identity of the operator responsible for exporting the goods to the Community,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Article 1

Whereas:

Article 1(1) and (2) of Regulation (EC) No 763/2000 shall be replaced by the following:

- (1) Regulation (EC) No 763/2000 ⁽²⁾ extended the definitive anti-dumping duty of 58,6 % imposed by Regulation (EC) No 584/96 ⁽³⁾ to imports of the same product consigned from Taiwan, whether the product is declared as originating in Taiwan or not, with the exception of products manufactured and exported by the three co-operating Taiwanese exporters concerned.
- (2) It is the consistent practice of the Community institutions to individualise anti-dumping measures in respect of goods manufactured by individual concerns.
- (3) Article 1 of Regulation (EC) No 763/2000 limits the exemption from the extension of the duties to products manufactured and directly sold to the Community by the three cooperating Taiwanese exporters concerned.
- (4) On the basis of the findings of the relevant investigation, it appears appropriate that the scope of the exemption should encompass all export sales of the product manufactured by the exporters concerned, either directly or through a third-party trader.
- (5) The aforesaid Article 1 should therefore be amended in order to make the exemption applicable to products manufactured by the three cooperating Taiwanese

'1. The definitive anti-dumping duty imposed by Regulation (EC) No 584/96 on imports of certain tube and pipe fittings of iron and steel falling within CN codes ex 7307 93 11 (TARIC code 7307 93 11 90), ex 7307 93 19 (TARIC code 7307 93 19 90), ex 7307 99 30 (TARIC code 7307 99 30 91) and ex 7307 99 90 (TARIC code 7307 99 90 91) originating in the People's Republic of China, is hereby extended to imports of the same fittings consigned from Taiwan (whether these fittings are declared as originating in Taiwan or not) (TARIC additional code A 999), with the exception of those produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 098), Rigid Industries Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 099) and Niang Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 100).

2. The duty extended by paragraph 1 shall be collected on imports registered in accordance with Article 2 of Regulation (EC) No 1683/1999 and Articles 13(3) and 14(5) of Regulation (EC) No 384/96, with the exception of those produced by the companies referred to in paragraph 1.'

Article 2

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

It shall apply with effect from 15 April 2000.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

⁽²⁾ OJ L 94, 14.4.2000, p. 1.

⁽³⁾ OJ L 84, 3.4.1996, p. 1.

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

Done at Luxembourg, 17 October 2000.

For the Council

The President

L. FABIOUS

COUNCIL REGULATION (EC) No 2315/2000**of 17 October 2000****amending Regulation (EC) No 2402/98 imposing a definitive anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

dumping duty had been absorbed and therefore the anti-dumping measures referred to had led to an insufficient movement or no movement in resale prices or subsequent selling prices in the Community.

- (3) The request contained prima facie evidence that the resale prices and subsequent selling prices in the Community of the product concerned did not adequately reflect the level of the antidumping measures imposed. In addition to the insufficient movement of resale and subsequent selling prices, the request also argued that most of the imports were made at heavily discounted prices by Community importers related to exporters and thus subject to the *ad valorem* duty which was insufficient to raise duty-paid prices to a level close to the minimum price.

A. PROCEDURE**1. Original measures**

- (1) In November 1998, by Regulation (EC) No 2402/98⁽²⁾ (hereinafter referred to as 'the Regulation'), the Council imposed a definitive anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China (hereinafter referred to as 'the PRC'). The measure was in the form of either:
- (a) the difference between the minimum import price of ECU 2 622 per tonne and the cif Community frontier price in all cases where the latter is less than the minimum import price, and established on the basis of an invoice issued by an exporter located in the PRC to a party unrelated to it. No duty should be collected where the cif Community frontier price per tonne is equal to or higher than the minimum import price; or
- (b) equal to an *ad valorem* duty of 31,7 % in all other cases not falling under subparagraph (a) above.

2. Request for an anti-absorption review

- (2) On 22 July 1999, the Commission received a request for a review pursuant to Article 12 of Council Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation'). The request was lodged by the Comité de Liaison des Industries de Ferro-Alliages (Euro Alliages) on behalf of the sole known Community producer of unwrought unalloyed magnesium, Pechiney Electrometallurgie, France, alleging that all or part of the anti-

3. The anti-absorption investigation

- (4) On 4 September 1999, the Commission announced by a notice published in the *Official Journal of the European Communities*⁽³⁾ the initiation of a review, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of unwrought unalloyed magnesium originating in the PRC.
- (5) The Commission officially advised the producers/exporters, importers/traders and users/associations known to be concerned, the representatives of the exporting country and the Community producer of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing. All parties who so requested were granted hearings. Questionnaires were sent directly by the Commission to all producers/exporters, users/associations and importers/traders known to be concerned.
- (6) Three exporters, two importers, one association of users, and four users belonging to the same group responded to the questionnaire. Written submissions were also received from certain other users and from one steel association. The Commission carried out verification visits at the premises of the following companies:

— Deumu Deutsche Erz- und Metallunion GmbH, Germany,

— Wogen Resources Ltd, United Kingdom.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

⁽²⁾ OJ L 298, 7.11.1998, p. 1.

⁽³⁾ OJ C 253, 4.9.1999, p. 15.

- (7) The investigation covered the period 1 September 1998 to 31 August 1999 (hereinafter referred to as 'the IP'). The IP was used to determine the level of export, resale and subsequent selling prices charged after the imposition of the anti-dumping measures.
- (8) The investigation exceeded the normal duration of six months provided for in Article 12(4) of the basic Regulation due to the complexity of the investigation, notably because of the existence of two forms of duty.

B. PRODUCT UNDER CONSIDERATION

- (9) The product reinvestigated is the same as in the investigation that led to the imposition of the measures in force, i.e. unwrought unalloyed magnesium, currently classifiable within CN codes 8104 11 00 and ex 8104 19 00 (TARIC code 8104 19 00 20).

Unwrought unalloyed magnesium comprises:

- unwrought magnesium unintentionally containing small amounts of other elements as impurities, and
- unwrought magnesium, intentionally containing added elements such as aluminium and zinc, which does not correspond to one of the alloys described in the Annex to the Regulation.

The uses of unwrought unalloyed magnesium are as follows:

- as an alloying element in the production of aluminium alloys
- desulphurisation of steel
- iron nodularisation
- chemical applications, e.g. titanium production
- others, e.g. anode production, pharmaceutical and military applications.

C. THE REINVESTIGATION

- (10) The investigation sought to establish whether the measures previously imposed have had the intended effect and whether any failure to have such effects was as a result of increased dumping. Such failure can be identified by (i) no movement, or an insufficient movement, of resale or subsequent selling prices in the Community or, if no clear conclusion can be drawn from these price movements, (ii) a fall in the direct export prices charged by exporters to the Community.

1. Movement of resale prices in the Community

- (a) *Examination of whether the remedial effect of the measures in force was undermined by absorption of the duty*
- (11) In establishing whether resale and subsequent selling prices had moved sufficiently, a comparison was made

of the price levels during the original investigation period (1 July 1996 to 30 June 1997, hereinafter referred to as 'the original IP') and those charged during the IP. The two cooperating importers in the Community and the four user companies, which purchased the product concerned exported from the PRC both during the original IP and the IP, provided information on purchase and resale prices of Chinese unwrought unalloyed magnesium. These cooperating importers and users account for 89 % of the total volume of imports into the Community during the IP.

A comparison of resale prices charged during the original IP and during the IP, including all payable duties, showed that resale prices had actually fallen since the original measures were imposed. On average prices fell by 0,7 % as compared to the level previously established in the original IP, while in fact they should have increased by more than 30 %.

(b) *Claims made by interested parties*

- (12) Interested parties were given an opportunity to clarify the situation with regard to resale prices, which could justify a lack of movement in prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duties.

None of the importers and users provided any satisfactory explanation for the decrease in resale prices in the Community. Several parties alleged that the lack of movement in resale prices was due to the decrease in export prices which in turn was caused by a general decrease in the prices of magnesium on the world market. In this context, it is difficult to understand why no party requested a review of normal value within the time limits set out in the notice of initiation in accordance with Article 12(5) of the basic Regulation. In any case, the information submitted well beyond the time limits was incomplete and did not prove the existence of a change in normal value in Norway (the reference country) or in respect of world market prices when compared to those of the original IP.

On the contrary, the information submitted in respect of prices practised by a Norwegian company showed an average selling price for the IP above the normal value established for the original IP. Moreover, the data extracted from the Metal Bulletin and submitted by one exporter showed that the average prices in the 'European free market' in the IP were 62 % higher than the Chinese free market export prices, which shows the continuation of a pattern of Chinese export prices well below international and European market prices.

(c) *Conclusion on resale prices*

- (13) The investigation established a decrease in resale prices between the original IP and the IP. This was found to be enough evidence of absorption and therefore it was not necessary to investigate the development of export prices.

2. New dumping margin

- (14) Since the undermining of the remedial effect of the measures was established, the revised level of duty had to be calculated. To that end, in accordance with Article 12(2) of the basic Regulation, export prices were reassessed and the dumping margin recalculated accordingly.

(a) *Reassessment of export prices*

- (15) Export prices were reassessed pursuant to Article 2(9) of the basic Regulation because they appeared to be unreliable. Indeed, following the imposition of measures resale prices decreased slightly although they should have increased as a result of the anti-dumping duty. As already explained, no explanation had been given by any party for this lack of movement of resale prices. All this pointed to the existence of a compensatory arrangement between the exporter and the importer. Consequently, the reassessment was based on the originally established export prices, taking into account all applicable costs pursuant to Article 2(9) of the basic Regulation.

(b) *Recalculation of the dumping margin taking into account the reassessed export prices*

- (16) In line with Article 12 of the basic Regulation, the countrywide margin of dumping for the Chinese exporters was recalculated. No party requested that normal value be reviewed pursuant to Article 12(5) of the basic Regulation. Therefore the reassessed export prices were compared with the normal value established during the original IP on a fob basis.

The resulting dumping margin expressed as a percentage of the cif net, free at Community frontier prices, before duty, established in the original IP is 63,4 %.

As a result the Council considers that pursuant to Article 12(3) of the basic Regulation, the measures in force should therefore be amended in accordance with the new findings.

D. PROPOSED REVISED MEASURES

- (17) The investigation has actually shown that the reconstructed export prices have fallen and that the dumping margin has increased by the amount of this fall.

To take account of this increased dumping the anti-dumping measures should be amended. It will be recalled that two types of anti-dumping duties were

imposed, i.e. a variable and an *ad valorem*. Practically all exports during the IP were subject to the *ad valorem* duty. During the course of the investigation it was found that the *ad valorem* duty was absorbed whilst no evidence could be found for the absorption of the minimum price. Therefore, the Council considers it as appropriate that the form of the measures remains the same as in the original investigation, i.e. a variable duty in the form of a minimum price for unrelated parties and an *ad valorem* duty for related parties. The *ad valorem* duty is to be amended with a view to reflecting the increased dumping.

For the *ad valorem* duty, the new level, expressed as a percentage of the cif Community frontier price, is 63,4 %. The minimum price, which is not affected by the new findings, remains the same as in the original investigation as it corresponds to the normal value adjusted to a cif Community frontier level.

- (18) Since the existing duties are based on the dumping margin found in the original investigation, and since these duties have been absorbed, it was not necessary to reassess the injury margin,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 2402/98 shall be replaced by the following:

‘2. The amount of the anti-dumping duty shall be:

- (a) the difference between the minimum import price of EUR 2 622 per tonne and the cif Community frontier price in all cases where the latter is:
- less than the minimum import price (TARIC additional code A 156), and
 - established on the basis of an invoice issued by an exporter located in the People's Republic of China to a party unrelated to it.

No duty shall be collected where the cif Community frontier price per tonne is equal to or higher than the minimum import price;

- (b) equal to an *ad valorem* duty of 63,4 % in all other cases not falling under subparagraph (a) (TARIC additional code 8900).’

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 Luxembourg, 17 October 2000.

For the Council

The President

L. FABIOUS

COMMISSION REGULATION (EC) No 2316/2000
of 19 October 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 20 October 2000.

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

Done at Brussels, 19 October 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 19 October 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	107,2
	060	111,8
	999	109,5
0707 00 05	052	86,5
	628	139,3
	999	112,9
0709 90 70	052	92,0
	999	92,0
0805 30 10	052	66,7
	388	57,6
	524	73,9
	528	55,8
0806 10 10	999	63,5
	052	99,5
	064	75,2
	400	229,8
0808 10 20, 0808 10 50, 0808 10 90	632	44,0
	999	112,1
	388	48,5
	400	58,6
0808 20 50	800	148,6
	999	85,2
	052	81,4
	064	59,1
	999	70,3

⁽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 2317/2000**of 19 October 2000****opening an invitation to tender for the refund for the export of barley to all third countries except the United States and Canada**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) In view of the current situation on the cereals market, an invitation should be opened, in respect of barley to tender for the export refund provided for in Article 4 of Regulation (EC) No 1501/95.
- (2) The detailed procedural rules governing invitations to tender are as regards the fixing of the export refund in Regulation (EC) No 1501/95. The commitments on the part of the tenderer include an obligation to lodge an application for an export licence. Compliance with this obligation may be ensured by requiring tenderers to lodge a tendering security of EUR 12 per tonne when they submit their tenders.
- (3) It is necessary to provide for a specific period of validity for licences issued under that invitation to tender. That period of validity must meet the needs of the world market for the 2000/01 marketing year.
- (4) In order to ensure that all those concerned are treated equally, it is necessary to lay down that the period of validity of the licences issued should be identical.
- (5) In order to ensure the smooth operation of the export tendering procedure it is appropriate to prescribe a minimum quantity to be tendered for and a time limit and form for the communication of tenders submitted to the competent authorities.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

Article 1

1. Tenders shall be invited for the export refund provided for in Article 4 of Regulation (EC) No 1501/95.
2. The tendering procedure shall concern barley for export to all third countries except the United States and Canada.
3. The invitation shall remain open until 17 May 2001. During this period weekly awards shall be made, for which the quantities and the time limits for the submission of tenders shall be as prescribed in the notice of invitation to tender.

Article 2

A tender shall be valid only if it relates to an amount of not less than 1 000 tonnes.

Article 3

The security referred to in Article 5(3a) of Regulation (EC) No 1501/95 shall be EUR 12 per tonne.

Article 4

1. Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁵⁾, export licences issued under Article 8(1) of Regulation (EC) No 1501/95 shall, for the purpose of determining their period of validity, be deemed to have been issued on the day on which the tender was submitted.
2. Export licences issued in connection with the invitations to tender pursuant to this Regulation shall be valid from their date of issue, as defined in paragraph 1, until the end of the fourth month following that of issue.

Article 5

Notwithstanding Article 16 of Commission Regulation (EC) No 800/1999 ⁽⁶⁾, as amended by Regulation (EC) No 1557/2000 ⁽⁷⁾, proof of completion of customs formalities for release for consumption shall not be required for payment of refunds fixed in a contract awarded under this tender, in so far as the operator provides proof that a quantity of at least 1 500 tonnes of cereal products have left the customs territory of the Community on board a vessel suitable for sea transport.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 152, 24.6.2000, p. 1.

⁽⁶⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁷⁾ OJ L 179, 18.7.2000, p. 6.

Article 6

1. The Commission shall decide, pursuant to the procedure laid down in Article 23 of Regulation (EEC) No 1766/92:

- to fix a maximum export refund, taking account in particular of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or
- to make no award.

2. Where a maximum export refund is fixed, the contract shall be awarded to the tenderer or tenderers whose bids are equal to or lower than the maximum refund.

Article 7

Tenders submitted must reach the Commission through the intermediary Member States, at the latest one and a half hours after expiry of the period for the weekly submission of tenders

as specified in the notice of invitation to tender. They must be communicated in the form indicated in Annex I, to the telex or fax numbers in Annex II.

If no tenders are received, Member States shall inform the Commission of this within the time limit indicated in the preceding paragraph.

Article 8

The time limits fixed for the submission of tenders shall correspond to Belgian time.

Article 9

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

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Weekly tender for the refund for the export of barley to all third countries except the United States and Canada

(Regulation (EC) No 2317/2000)

(Closing date for the submission of tenders (date/time))

1	2	3
Number of tenderer	Quantity in tonnes	Amount of export refund in EUR/tonne
1		
2		
3		
etc.		

ANNEX II

The only numbers to use to call Brussels (DG AGRI-C-1) are:

- telex: 22037 AGREC B,
22070 AGREC B (Greek characters),
- fax: 296 49 56,
295 25 15.
-

COMMISSION REGULATION (EC) No 2318/2000
of 19 October 2000
opening tendering procedure No 38/2000 EC for the sale of wine alcohol for new industrial uses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, as amended by Commission Regulation (EC) No 1622/2000 ⁽²⁾,

Tendering procedure No 38/2000 EC is hereby opened for the sale of wine alcohol for new industrial uses. The alcohol concerned has been produced from distillation under Articles 35 and 36 of Regulation (EEC) No 822/87 and is held by the French intervention agency.

Having regard to Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽³⁾, and in particular Article 80 thereof,

The volume put up for sale is 100 000 hectolitres of alcohol at 100 % vol. The vat numbers, places of storage and the volume of alcohol at 100 % vol contained in each vat are detailed in the Annex hereto.

Whereas:

Article 2

(1) Regulation (EC) No 1623/2000 lays down, *inter alia*, the detailed rules for disposing of stocks of alcohol arising from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 held by intervention agencies.

The sale shall be conducted in accordance with Articles 79, 81, 82, 83, 84, 85, 95, 96, 97, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

(2) Tendering procedures should be organised for the sale of wine alcohol for new industrial uses with a view to reducing the stocks of wine alcohol in the Community and enabling small-scale industrial projects to be carried out and such alcohol to be processed into goods intended for export for industrial uses. The wine alcohol of Community origin in storage in the Member States consists of quantities produced from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽⁴⁾, as last amended by Regulation (EC) No 1677/1999 ⁽⁵⁾.

Article 3

Tenders must be submitted to the intervention agency holding the alcohol concerned:

Onivins-Libourne, Délégation nationale, 17 avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel. (33) 557 55 20 00; telex 57 20 25; fax (33) 557 55 20 59) or sent by registered mail to that address.

(3) Since the adoption of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽⁶⁾, the prices offered in tenders and securities must be expressed in euros and payments must be made in euro.

Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedure No 38/2000 EC for new industrial uses', the outer envelope bearing the address of the intervention agency concerned.

Tenders must reach the intervention agency concerned not later than 12 noon Brussels time on 6 November 2000.

(4) Minimum prices should be fixed for the submission of tenders, broken down according to the type of end use.

All tenders must be accompanied by proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol has been lodged with the intervention agency concerned.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

Article 4

The minimum prices which may be offered are EUR 7,5 per hectolitre of alcohol at 100 % vol intended for the manufacture of baker's yeast, EUR 7,5 per hectolitre of alcohol at 100 % vol intended for the manufacture of amine- and chloral-type chemical products for export and EUR 7,5 per hectolitre of alcohol at 100 % vol intended for other industrial uses.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1.

⁽²⁾ OJ L 194, 31.7.2000, p. 1.

⁽³⁾ OJ L 194, 31.7.2000, p. 45.

⁽⁴⁾ OJ L 84, 27.3.1987, p. 1.

⁽⁵⁾ OJ L 199, 30.7.1999, p. 8.

⁽⁶⁾ OJ L 349, 24.12.1998, p. 1.

Article 5

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000. The price of samples shall be EUR 10 per litre.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

Article 6

The performance guarantee shall be EUR 30 per hectolitre of alcohol at 100 % vol.

Article 7

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, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

INVITATION TO TENDER No 38/2000 EC FOR THE SALE OF ALCOHOL FOR NEW INDUSTRIAL USES

Place of storage, volume and characteristics of the alcohol put up for sale

Member State	Location	Vat No	volume in hectolitres of alcohol at 100 % vol.	Regulation (EEC) No 822/87	Type of alcohol	Alcoholic strength (% vol.)
France	Port-la-Nouvelle Av. Adolphe-Turrel BP 62 F-11210 Port-la-Nouvelle	24	12 840	36	raw	+ 92 %
	Longuefuye F-53200 Longuefuye	1	22 330	35	raw	+ 92 %
		2	22 400	35	raw	+ 92 %
		7	22 320	36	raw	+ 92 %
		10	20 110	36	raw	+ 92 %
	Total		100 000			

COMMISSION REGULATION (EC) No 2319/2000
of 19 October 2000
fixing the minimum selling prices for beef put up for sale under the invitation to tender referred to
in Regulation (EC) No 1999/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 1999/2000 ⁽²⁾.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices for beef for the invitation to tender held in accordance with Regulation (EC) No 1999/2000 for which the time limit for the submission of tenders was 9 October 2000 are as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 238, 22.9.2000, p. 30.

⁽³⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁴⁾ OJ L 245, 14.10.1995, p. 39.

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

Estado miembro	Productos	Precio mínimo expresado en euros por tonelada
Medlemsstat	Produkter	Mindestepriser i EUR/ton
Mitgliedstaat	Erzeugnisse	Mindestpreise ausgedrückt in EUR/Tonne
Κράτος μέλος	Προϊόντα	Ελάχιστες πωλήσεις εκφραζόμενες σε Ευρώ ανά τόνο
Member State	Products	Minimum prices expressed in EUR per tonne
État membre	Produits	Prix minimaux exprimés en euros par tonne
Stato membro	Prodotti	Prezzi minimi espressi in euro per tonnellata
Lidstaat	Producten	Minimumprijzen uitgedrukt in euro per ton
Estado-Membro	Produtos	Preço mínimo expresso em euros por tonelada
Jäsenvaltio	Tuotteet	Vähimmäishinnat euroina tonnia kohden ilmaistuna
Medlemsstat	Produkter	Minimipriser i euro per ton

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

FRANCE	— Quartiers avant	1 388
	— Quartiers arrière	2 253

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

UNITED KINGDOM	— Intervention fillet (INT 15)	15 060
	— Intervention rump (INT 16)	4 410
FRANCE	— Entrecôte (INT 19)	2 290
	— Tranche grasse (INT 12)	2 290
DANMARK	— Interventionsforferding (INT 24)	1 852
IRELAND I	— Intervention striploin (INT 17)	6 160
	— Intervention topside (INT 13)	4 052
	— Intervention silverside (INT 14)	3 801
	— Intervention rump (INT 16)	3 701
	— Intervention thick flank (INT 12)	2 999
	— Intervention forequarter (INT 24)	1 992
	— Intervention shoulder (INT 22)	2 100
	— Intervention shank (INT 11)	1 925
	— Intervention shin (INT 21)	1 925
	— Intervention brisket (INT 23)	1 960
	— Intervention flank (INT 18)	1 120
	— Intervention forerib (INT 19)	4 001
IRELAND II	— Intervention topside (INT 13)	4 052
	— Intervention silverside (INT 14)	3 700
	— Intervention rump (INT 16)	3 079
	— Intervention shoulder (INT 22)	2 101

COMMISSION REGULATION (EC) No 2320/2000**of 19 October 2000****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

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 Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 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 in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) 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.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) 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(a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

ANNEX

to the Commission Regulation of 19 October 2000 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 11 9000	—	EUR/t	—
1001 10 00 9400	A00	EUR/t	0	1101 00 15 9100	A00	EUR/t	0
1001 90 91 9000	—	EUR/t	—	1101 00 15 9130	A00	EUR/t	0
1001 90 99 9000	A00	EUR/t	0	1101 00 15 9150	A00	EUR/t	0
1002 00 00 9000	A00	EUR/t	0	1101 00 15 9170	A00	EUR/t	0
1003 00 10 9000	—	EUR/t	—	1101 00 15 9180	A00	EUR/t	0
1003 00 90 9000	A00	EUR/t	0	1101 00 15 9190	—	EUR/t	—
1004 00 00 9200	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1004 00 00 9400	—	EUR/t	—	1102 10 00 9500	A00	EUR/t	37,00
1005 10 90 9000	—	EUR/t	—	1102 10 00 9700	A00	EUR/t	29,25
1005 90 00 9000	A00	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1007 00 90 9000	—	EUR/t	—	1103 11 10 9200	A00	EUR/t	0 ⁽¹⁾
1008 20 00 9000	—	EUR/t	—	1103 11 10 9400	A00	EUR/t	0 ⁽¹⁾
				1103 11 10 9900	—	EUR/t	—
				1103 11 90 9200	A00	EUR/t	0 ⁽¹⁾
				1103 11 90 9800	—	EUR/t	—

⁽¹⁾ No refund is granted when this product contains compressed meal.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

COMMISSION REGULATION (EC) No 2321/2000**of 19 October 2000****fixing the export refunds on products processed from cereals and rice**

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 Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1667/2000 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 13 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 cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95 ⁽⁵⁾, as amended by Regulation (EC) No 2993/95 ⁽⁶⁾, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) 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.

(7) The refund must be fixed once a month; whereas it may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted.

(9) 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(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 193, 29.7.2000, p. 3.

⁽⁵⁾ OJ L 147, 30.6.1995, p. 55.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 25.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 19 October 2000 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 ⁽¹⁾	A00	EUR/t	36,85	1104 23 10 9100	A00	EUR/t	39,48
1102 20 10 9400 ⁽¹⁾	A00	EUR/t	31,58	1104 23 10 9300	A00	EUR/t	30,27
1102 20 90 9200 ⁽¹⁾	A00	EUR/t	31,58	1104 29 11 9000	A00	EUR/t	0,00
1102 90 10 9100	A00	EUR/t	0,00	1104 29 51 9000	A00	EUR/t	0,00
1102 90 10 9900	A00	EUR/t	0,00	1104 29 55 9000	A00	EUR/t	0,00
1102 90 30 9100	A00	EUR/t	48,65	1104 30 10 9000	A00	EUR/t	0,00
1103 12 00 9100	A00	EUR/t	48,65	1104 30 90 9000	A00	EUR/t	6,58
1103 13 10 9100 ⁽¹⁾	A00	EUR/t	47,38	1107 10 11 9000	A00	EUR/t	0,00
1103 13 10 9300 ⁽¹⁾	A00	EUR/t	36,85	1107 10 91 9000	A00	EUR/t	0,00
1103 13 10 9500 ⁽¹⁾	A00	EUR/t	31,58	1108 11 00 9200	A00	EUR/t	0,00
1103 13 90 9100 ⁽¹⁾	A00	EUR/t	31,58	1108 11 00 9300	A00	EUR/t	0,00
1103 19 10 9000	A00	EUR/t	33,77	1108 12 00 9200	A00	EUR/t	42,11
1103 19 30 9100	A00	EUR/t	0,00	1108 12 00 9300	A00	EUR/t	42,11
1103 21 00 9000	A00	EUR/t	0,00	1108 13 00 9200	A00	EUR/t	42,11
1103 29 20 9000	A00	EUR/t	0,00	1108 13 00 9300	A00	EUR/t	42,11
1104 11 90 9100	A00	EUR/t	0,00	1108 19 10 9200	A00	EUR/t	50,16
1104 12 90 9100	A00	EUR/t	54,06	1108 19 10 9300	A00	EUR/t	50,16
1104 12 90 9300	A00	EUR/t	43,25	1109 00 00 9100	A00	EUR/t	0,00
1104 19 10 9000	A00	EUR/t	0,00	1702 30 51 9000 ⁽²⁾	A00	EUR/t	41,26
1104 19 50 9110	A00	EUR/t	42,11	1702 30 59 9000 ⁽²⁾	A00	EUR/t	31,58
1104 19 50 9130	A00	EUR/t	34,22	1702 30 91 9000	A00	EUR/t	41,26
1104 21 10 9100	A00	EUR/t	0,00	1702 30 99 9000	A00	EUR/t	31,58
1104 21 30 9100	A00	EUR/t	0,00	1702 40 90 9000	A00	EUR/t	31,58
1104 21 50 9100	A00	EUR/t	0,00	1702 90 50 9100	A00	EUR/t	41,26
1104 21 50 9300	A00	EUR/t	0,00	1702 90 50 9900	A00	EUR/t	31,58
1104 22 20 9100	A00	EUR/t	43,25	1702 90 75 9000	A00	EUR/t	43,23
1104 22 30 9100	A00	EUR/t	45,95	1702 90 79 9000	A00	EUR/t	30,00
				2106 90 55 9000	A00	EUR/t	31,58

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), amended.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

COMMISSION REGULATION (EC) No 2322/2000
of 19 October 2000
fixing the export refunds on cereal-based compound feedingstuffs

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 Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 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.
- (2) Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A

refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) However, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported.
- (6) The refund must be fixed once a month; whereas it may be altered in the intervening period.
- (7) 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 compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 19 October 2000 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	A00	EUR/t	26,32
Cereal products excluding maize and maize products	A00	EUR/t	0,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

**COMMISSION REGULATION (EC) No 2323/2000
of 19 October 2000**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 1701/2000**

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 Regulation (EC) No 1666/2000⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of certain ACP States was opened pursuant to Commission Regulation (EC) No 1701/2000⁽⁵⁾, as amended by Regulation (EC) No 2019/2000⁽⁶⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal 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

For tenders notified from 13 to 19 October 2000, pursuant to the invitation to tender issued in Regulation (EC) No 1701/2000, the maximum refund on exportation of common wheat shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 195, 1.8.2000, p. 18.

⁽⁶⁾ OJ L 241, 26.9.2000, p. 37.

COMMISSION REGULATION (EC) No 2324/2000**of 19 October 2000****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2014/2000**

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 Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to certain ACP States was opened pursuant to Commission Regulation (EC) No 2014/2000 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal 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

For tenders notified from 13 to 19 October 2000, pursuant to the invitation to tender issued in Regulation (EC) No 2014/2000, the maximum refund on exportation of common wheat shall be EUR 3,00/t.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 241, 26.9.2000, p. 23.

COMMISSION REGULATION (EC) No 2325/2000
of 19 October 2000
fixing the maximum export refund on rye in connection with the invitation to tender issued in
Regulation (EC) No 1740/2000

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 Regulation (EC) No 1666/2000⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of rye to all countries was opened pursuant to Commission Regulation (EC) No 1740/2000⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal 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

For tenders notified from 13 to 19 October 2000, pursuant to the invitation to tender issued in Regulation (EC) No 1740/2000, the maximum refund on exportation of rye shall be EUR 26,94/t.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 199, 5.8.2000, p. 3.

COMMISSION REGULATION (EC) No 2326/2000
of 19 October 2000
concerning tenders notified in response to the invitation to tender for the export of oats issued in
Regulation (EC) No 2097/2000

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 Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾,

Having regard to Commission Regulation (EC) No 2097/2000 of 3 October 2000 on a special intervention measure for cereals in Finland and Sweden ⁽⁵⁾, and in particular Article 8 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 2097/2000.

- (2) Article 8 of Regulation (EC) No 2097/2000 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.

- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund 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 notified from 13 to 19 October 2000 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 2097/2000.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 249, 4.10.2000, p. 15.

COMMISSION REGULATION (EC) No 2327/2000**of 19 October 2000****fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty**

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 Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) 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 last amended by Regulation (EC) No 1667/2000 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽⁵⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. Whereas it is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. Whereas the fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

- (5) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ⁽⁶⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000 provides that a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93 ⁽⁷⁾, as last amended by Commission Regulation (EC) No 87/1999 ⁽⁸⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark stipulates that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.
- (8) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (9) 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 rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 20 October 2000.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 193, 29.7.2000, p. 3.

⁽⁵⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁶⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁷⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁸⁾ OJ L 9, 15.1.1999, p. 8.

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

Done at Brussels, 19 October 2000.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

to the Commission Regulation of 19 October 2000 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases	— —	— —
1001 90 99	Common wheat and meslin: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases	— — — — —	— — — — —
1002 00 00	Rye	3,377	3,377
1003 00 90	Barley – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	— —	— —
1004 00 00	Oats	2,703	2,703
1005 90 00	Maize (corn) used in the form of: – starch: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽⁴⁾ : – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – where goods falling within subheading 2208 ⁽³⁾ are exported – other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	1,862 0,547 2,632 1,204 0,410 1,974 0,547 2,632 1,862 0,547 2,632	1,862 0,547 2,632 1,204 0,410 1,974 0,547 2,632 1,862 0,547 2,632

(EUR/100 kg)

(EUR/100 kg)			
CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly-milled rice:		
	– round grain	12,500	12,500
	– medium grain	12,500	12,500
	– long grain	12,500	12,500
1006 40 00	Broken rice	3,300	3,300
1007 00 90	Sorghum	—	—

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ The goods concerned fall under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex B of Council Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 2328/2000
of 19 October 2000
fixing production refunds on cereals and rice

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 Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 7 ⁽³⁾ 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 last amended by Regulation (EC) No 1667/2000 ⁽⁴⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors ⁽⁵⁾, as last amended by Regulation (EC) No 87/1999 ⁽⁶⁾, and in particular Article 3 thereof,

Whereas:

- (1) Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be

fixed once a month and may be altered if the price of maize and/or wheat changes significantly.

- (2) The production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable.
- (3) 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 refund referred to in Article 3(2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, barley, oats, potatoes, rice or broken rice, shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 20 October 2000.

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

Done at Brussels, 19 October 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 193, 29.7.2000, p. 3.

⁽⁵⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁶⁾ OJ L 9, 15.1.1999, p. 8.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 September 2000

concerning the conclusion of an Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth

(2000/630/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 149 and 150, in conjunction with Article 300(2) and (3), first subparagraph thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The participation of Malta in Community programmes is an important element of the pre-accession strategy for Malta as set out in Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta ⁽²⁾.
- (2) Council Decision 1999/382/EC of 26 April 1999 establishing the second phase of the Community vocational training action programme 'Leonardo da Vinci' ⁽³⁾, and in particular Article 10 thereof, Decision No 253/2000/EC of the European Parliament and of the Council of 24 January 2000 establishing the second phase of the Community action programme in the field of education 'Socrates' ⁽⁴⁾, and in particular Article 12 thereof, and Decision No 1031/2000/EC of the European Parliament and of the Council of 13 April 2000 establishing the 'Youth' Community action programme ⁽⁵⁾, and in particular Article 11 thereof, provide that these programmes are to be open to the participation of Malta.
- (3) In conformity with the negotiating guidelines adopted by the Council on 14 February 2000, the Commission

has negotiated, on behalf of the Community, an agreement to enable Malta to participate in these programmes.

- (4) This Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

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

Article 3

The President of the Council shall, on behalf of the Community, give the notifications provided for in Article 4 of the Agreement.

Done at Brussels, 28 September 2000.

For the Council

The President

D. VAILLANT

⁽¹⁾ Opinion delivered on 6 September 2000 (not yet published in the Official Journal).

⁽²⁾ OJ L 68, 16.3.2000, p. 3.

⁽³⁾ OJ L 146, 11.6.1999, p. 33.

⁽⁴⁾ OJ L 28, 3.2.2000, p. 1.

⁽⁵⁾ OJ L 117, 18.5.2000, p. 1.

AGREEMENT**between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth**

THE EUROPEAN COMMUNITY,

of the one part, and

MALTA,

of the other part,

Whereas:

- (1) Council Decision 1999/382/EC of 26 April 1999 establishing the second phase of the Community vocational training action programme 'Leonardo da Vinci' ⁽¹⁾, and in particular Article 10 thereof, Decision No 253/2000/EC of the European Parliament and of the Council of 24 January 2000 establishing the second phase of the Community action programme in the field of education 'Socrates' ⁽²⁾, and in particular Article 12 thereof, and Decision No 1031/2000/EC of the European Parliament and of the Council of 13 April 2000 establishing the 'Youth' Community action programme ⁽³⁾, and in particular Article 11 thereof, provide that these programmes are to be open to the participation of Malta.
- (2) Malta has expressed the wish to participate in these programmes.
- (3) The participation of Malta in these programmes constitutes a significant step in the pre-accession strategy of Malta as set out in Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta ⁽⁴⁾,

HAVE AGREED AS FOLLOWS:

Article 1

Malta shall participate, from 2000, in the second phase of the European Community programmes Leonardo da Vinci and Socrates ('Leonardo da Vinci II' and 'Socrates II') and, from 2001, in the 'Youth' Community action programme ('Youth') according to the terms and conditions set out in Annexes I and II which shall form an integral part of this Agreement.

Article 2

This Agreement shall apply for the duration of Leonardo da Vinci II and Socrates II, starting on 1 January 2000 and, in the case of Youth, from 1 January 2001 to the end of the programme.

Article 3

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other, to the territory of Malta.

Article 4

This Agreement shall enter into force on the day of the notification by the Contracting Parties of the completion of their respective procedures.

Article 5

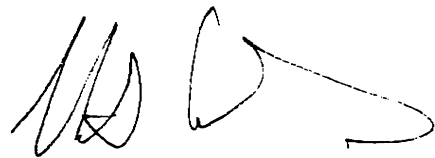
This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, Finnish, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of these texts being equally authentic.

Done at Brussels on the twenty-ninth day of September in the year 2000.

For the European Community



For the Republic of Malta



⁽¹⁾ OJ L 146, 11.6.1999, p. 33.

⁽²⁾ OJ L 28, 3.2.2000, p. 1.

⁽³⁾ OJ L 117, 18.5.2000, p. 1.

⁽⁴⁾ OJ L 68, 16.3.2000, p. 3.

ANNEX I

TERMS AND CONDITIONS FOR THE PARTICIPATION OF MALTA IN LEONARDO DA VINCI II, SOCRATES II AND YOUTH

1. Malta will participate in Leonardo da Vinci II, Socrates II and Youth ('the programmes') in conformity, unless otherwise provided in this Agreement, with the objectives, criteria, procedures and deadlines as defined in Decision 1999/382/EC, Decision No 253/2000/EC and Decision No 1031/2000/EC. It will participate in all the activities of the programmes, with the exception of certain activities within Youth which are devoted to cooperation with third countries which are not full participants in that programme.
2. In conformity with the terms of the respective Articles 5 of the Decisions on Leonardo da Vinci II, Socrates II and Youth, and with the provisions relating to the responsibilities of the Member States and of the Commission of the European Communities concerning the Leonardo da Vinci, Socrates and Youth national agencies adopted by the Commission, Malta shall establish the appropriate structures for the coordinated management of the implementation of the programme actions at national level and take the measures needed to ensure the adequate funding of these agencies, which will receive programme grants for their activities. Malta will take all other necessary steps for the efficient running of the programmes at national level.
3. To participate in the programmes, Malta will pay a contribution each year to the general budget of the European Union according to the modalities described in Annex II to this Agreement.

If necessary in order to take into account programme developments, or the evolution of Malta's absorption capacity, the Association Council is entitled to adapt this contribution, so as to avoid budgetary imbalance in the implementation of the programmes.

4. The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of Malta will be the same as those applicable to eligible institutions, organisations and individuals of the Community.
- In accordance with the relevant provisions of the decisions establishing the programmes, the Commission may take into consideration Maltese experts when it appoints independent experts to assist in the evaluation of the projects.
5. With a view to ensuring the Community dimension of the programmes, to be eligible for Community financial support, projects and activities will have to include at least a partner from one of the Member States.
 6. For the mobility activities referred to in Annex I, section III(1), to the Leonardo da Vinci II Decision, and for the actions to be managed on a decentralised basis within Socrates and Youth, as well as for financial support to the activities of the national agencies set up in accordance with point 2 of this Annex, funds will be allocated to Malta on the basis of the annual programme budget breakdown decided at Community level and Malta's contribution to the programme. The maximum amount of financial support to the activities of the national agencies will not exceed 50 % of the budget for the national agencies' work programmes.
 7. The Member States and Malta will make every effort, within the framework of existing provisions, to facilitate the free movement and residence of students, teachers, trainees, trainers, university administrators, young people and other eligible persons moving between Malta and the Member States of the Community for the purpose of participating in activities covered by this Agreement.
 8. Activities covered by this Agreement shall be exempt from imposition by Malta of indirect taxes, customs duties, prohibitions and restrictions on imports and exports in respect of goods and services intended for use under such activities.
 9. Without prejudice to the responsibilities of the Commission of the European Communities and the Court of Auditors of the European Communities in relation to the monitoring and evaluation of the programmes pursuant to the Decisions concerning Leonardo da Vinci II, Socrates II and Youth (Articles 13, 14 and 13 respectively), the participation of Malta in the programmes will be continuously monitored on a partnership basis involving the Commission and Malta. Malta will submit relevant reports to the Commission and take part in other specific activities set out by the Community in that context.
 10. In conformity with the Community's financial regulations, contractual arrangements concluded with, or by, entities of Malta must provide for controls and audits to be carried out by, or under the authority of, the Commission and the Court of Auditors. As far as financial audits are concerned, they may be carried out with the purpose of controlling such entities' income and expenditures, related to the contractual obligations towards the Community. In a spirit of cooperation and mutual interest, the relevant authorities of Malta shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

The provisions relating to the responsibilities of the Member States and of the Commission concerning the Leonardo da Vinci, Socrates and Youth national agencies adopted by the Commission will apply to the relations between Malta, the Commission and the Maltese national agencies. In the event of irregularity, negligence or fraud imputable to the Maltese national agencies, the Maltese authorities shall be responsible for the funds not recovered.

11. Without prejudice to the procedures referred to in Article 7 of the Decision on Leonardo da Vinci II and respective Articles 8 of the Decisions on Socrates II and Youth, representatives of Malta will participate as observers in the programme committees, for the points which concern them. These committees shall meet without the presence of representatives of Malta for the rest of the points, as well as at the time of voting.
 12. The language to be used in all contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative arrangements for the programmes, will be one of the official languages of the European Union.
 13. The Community and Malta may terminate activities under this Agreement at any time upon 12 months' notice in writing. Projects and activities in progress at the time of termination shall continue until their completion under the conditions laid down in this Agreement.
-

ANNEX II

FINANCIAL CONTRIBUTION OF MALTA TO LEONARDO DA VINCI II, SOCRATES II AND YOUTH

1. Leonardo da Vinci

The financial contribution to be paid by Malta to the general budget of the European Union to participate in the Leonardo da Vinci II programme will be the following (in EUR):

Year 2000	Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
441 000	453 000	482 000	502 000	523 000	549 000	569 000

2. Socrates

The financial contribution to be paid by Malta to the general budget of the European Union to participate in the Socrates II programme will be the following (in EUR):

Year 2000	Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
575 000	642 000	658 000	672 000	690 000	710 000	736 000

3. Youth

The financial contribution to be paid by Malta to the general budget of the European Union to participate in the Youth programme will be the following (in EUR):

Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
340 000	405 000	473 000	539 000	607 000	686 000

4. Malta will pay the contribution mentioned above entirely from the Maltese national budget in 2000, and for the following years partly from the Maltese national budget, and partly from Malta's pre-accession funds. Subject to a separate programming procedure within the framework of Regulation (EC) No 555/2000, the requested pre-accession funds will be transferred to Malta by means of a separate Financing Memorandum. Together with the part coming from Malta's State budget, these funds will constitute Malta's national contribution, out of which it will make payments in response to annual calls for funds from the Commission.

5. The pre-accession funds will be requested according to the following schedule:

— for the contribution to the Leonardo da Vinci II programme, the following yearly amounts (in EUR):

Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
300 000	425 000	400 000	400 000	400 000	Amount to be specified later

— for the contribution to the Socrates II programme, the following yearly amounts (in EUR):

Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
300 000	425 000	400 000	400 000	400 000	Amount to be specified later

— for the contribution to the Youth programme, the following yearly amounts (in EUR):

Year 2001	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
300 000	350 000	400 000	400 000	400 000	Amount to be specified later

The remaining part of Malta's contribution will be covered from the Maltese State budget.

6. The Financial Regulation applicable to the general budget of the European Communities will apply, notably to the management of the contribution of Malta.

Travel costs and subsistence costs incurred by representatives and experts of Malta for the purposes of taking part as observers in the work of the committees referred to in Annex I, point 11 or other meetings related to the implementation of the programmes shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for non-governmental experts of the Member States.

7. After the entry into force of this Agreement and at the beginning of each following year, the Commission will send to Malta a call for funds corresponding to its contribution to each of the respective programmes under this Agreement.

This contribution shall be expressed in euro and paid into a euro bank account of the Commission.

Malta will pay its contribution according to the call for funds:

- by 1 May for the part financed from its national budget, provided that the call for funds is sent by the Commission before 1 April, or at the latest one month after the call for funds is sent if later,
- by 1 May for the part financed from the pre-accession funds, provided that the corresponding amounts have been sent to Malta by this time, or at the latest in a period of 30 days after these funds have been sent to Malta.

Any delay in the payment of the contribution shall give rise to the payment of interest by Malta on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 1,5 percentage points.

Information relating to the entry into force of the Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth

The exchange of instruments notifying completion of the procedures necessary for the entry into force of the Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth, signed in Brussels on 29 September 2000, took place on the same day. The Agreement therefore entered into force on 29 September 2000 in accordance with Article 4.

COMMISSION

COMMISSION DECISION

of 16 May 2000

on State aid granted by Spain to Asociación General Agraria Mallorquina SA (AGAMA)

(notified under document number C(2000) 1401)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2000/631/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),

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⁾,

After giving notice to the interested parties to submit their comments, in accordance with the above Article ⁽²⁾,

Whereas:

I. PROCEDURE

- (1) The Commission was informed via a complaint that Spain had granted State aid to the Asociación General Agraria Mallorquina SA (hereafter 'AGAMA').
- (2) By telex dated 4 December 1995, the Commission asked the Spanish authorities for information on the aid and sent a reminder by telex dated 7 January 1997, but received no reply.
- (3) By letter dated 16 May 1997, the Commission informed the Spanish Government of its decision to open the procedure provided for in Article 87(2) of the Treaty with regard to the aid.
- (4) By letters dated 14 July 1997, 22 April 1998, 20 May 1998 and 18 March 1999, the Spanish authorities submitted their 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 the interested parties to submit their comments on the aid.
- (6) The Commission has received no comments from the interested parties.

II. DETAILED DESCRIPTION OF THE AID

- (7) The beneficiary of the aid granted by the Spanish authorities was the company AGAMA, which processes and markets milk products in Majorca (Balearic Islands). AGAMA is the only company involved in the industrial processing and marketing of milk products in the Balearic Islands.
- (8) In August 1990, AGAMA announced that it had suspended payments. The Government of the Balearic Islands decided to intervene, via the publicly owned company Semilla, following a feasibility study carried out by Inmark SA. This study envisaged the application of a number of measures within AGAMA to ensure its viability, *inter alia*, staff reductions, renegotiation of the company's debt with its creditors and an injection of capital.
- (9) Semilla advanced AGAMA ESP 176 million (EUR 1 057 781,30), i.e. 20 % of its debt with private financial institutions, which it then repaid. The institutions concerned waived ESP 706 million (EUR 4 243 145,46), equal to 80 % of the total debt of ESP 882 million (EUR 5 300 926,76).

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ C 204, 4.7.1997, p. 6.

⁽³⁾ See footnote 2.

- (10) Semilla also advanced AGAMA a sum of ESP 272 million (EUR 1 634 752,92), equal to 85 % of its debt to milk producers, which it then repaid. The milk producers concerned waived 15 % (approximately ESP 47 million) of the total debt of ESP 319 million (EUR 1 917 228,61). In exchange for payment of a large part of the debt, the milk producers concerned sold Semilla 6 681 of their AGAMA shares at the price of ESP 1 700 (EUR 10,22) per share, when their nominal value was ESP 10 000 (EUR 60,10). In addition, on 20 May 1991, Semilla took out, for ESP 1 million (EUR 6 010,12), an option on 11 674 AGAMA shares held by Palsac SA (a private company) at a total price of ESP 71 million (EUR 426 718,59), i.e. ESP 6 081 per share (EUR 36,55).
- (11) Furthermore, on 7 May 1991, Semilla transferred working capital of ESP 146 million (EUR 877 477,67) to AGAMA, which AGAMA was to repay.
- (12) At that point, Semilla's contribution to AGAMA comprised: ESP 176 million (EUR 1 057 781,30) intended to repay debts to private financial institutions, ESP 272 million (EUR 1 634 752,92) intended to repay debts to milk producers and working capital of ESP 146 million (EUR 877 477,67) in the form of loans repayable to Semilla. In addition, Semilla had provided ESP 11 million (EUR 66 111,33) for the purchase of shares and ESP 1 million (EUR 6 010,12) for a purchase option. The total contribution was ESP 606 million (EUR 3 642 133,35), which with interest gives a total of ESP 663 million (EUR 3 984 710,25).
- (13) On 3 April 1992, Semilla sold its shares and its option on AGAMA shares to Granjas Braut SA and Granjas Son Seat SAT for a total, including the repayment of AGAMA's debts to Semilla, of ESP 677 million (EUR 4 068 851,65). Of the four companies interested in buying AGAMA, which were all equally solvent, the Government of the Balearic Islands chose the best offer, in economic terms, received. However, after making an initial payment of around ESP 184 million (EUR 1 105 862,27) to Semilla, the buyers (who had already exercised their option to buy AGAMA's shares) were hit by financial difficulties and were unable to make payment to Semilla.
- (14) Semilla refused to postpone the deadline for payment as requested by Granjas Braut SA and Granjas Son Seat SAT, cancelled the contract and imposed the maximum penalty provided for in the contract, i.e. 30 %. Semilla was consequently able to recover AGAMA's shares. The operation produced an accounting loss of ESP 91 million (EUR 546 921,02) for Semilla.
- (15) After Semilla had recovered AGAMA, Ernest & Young drew up a restructuring plan, the conclusions of which stated that AGAMA would be economically viable if certain measures were taken: reducing production capacity, rationalising the range of finished products (which involved discontinuing the production of products with a small profit margin and promoting those products that were highly profitable), improving the brand image and reducing production costs. The plan forecast, at 31 December 1992, that the company would move into profit from 1997. (In fact, the company was into profit in 1996, one year earlier than forecast). In addition, the AGAMA shares held by Semilla and AGAMA's debts to Semilla were transferred to the Government of the Balearic Islands for operational reasons.
- (16) In September 1994, the Government of the Balearic Islands decided to inject capital of ESP 548 million (ESP 3 293 546,33), made up of ESP 213 million (EUR 1 280 155,78) in the form of new capital and ESP 335 million (EUR 2 013 390,55) from the conversion into equity capital of AGAMA's debt to Semilla, subsequently transferred to the Government of the Balearic Islands.
- (17) AGAMA's shareholders other than the Government (milk producers), who held 3 % of its capital, also injected capital (approximately ESP 16 million or EUR 96 161,94).
- (18) Moreover, in June 1994, AGAMA obtained a loan of ESP 500 million (EUR 3 005 060,52) from the financial institution La Caixa d'Estalvis i Pensions de Barcelona (hereafter 'La Caixa'), backed by a joint and several guarantee from the Government of the Balearic Islands. The loan was repaid in March 1998. The Spanish authorities provided a certificate issued by the Government of the Balearic Islands' General Treasury undertaking to recover the amount concerned from AGAMA should the guarantee be called upon. During that same period, AGAMA took out loans from other private financial institutions without a Government guarantee for approximately ESP 300 million (EUR 1 803 036,31). Those loans were repaid in June 1999.
- (19) The Spanish authorities calculated the aid element of the guarantee, in accordance with paragraph 38 of the Commission communication ⁽⁴⁾. The State aid element of the guarantee is equal to the difference between the interest rate AGAMA would have paid for the loan on the free market (between 12 % and 9,25 %) and the rate it actually paid (MIBOR plus 0,5 %), i.e. a difference of approximately 0,95 %.

⁽⁴⁾ OJ C 307, 13.11.1993, p. 3.

- (20) AGAMA's liabilities consisted of a loan of ESP 500 million (EUR 3 005 060,52) guaranteed by the Government and other unsecured loans totalling ESP 300 million (EUR 1 803 036,31). Of this, ESP 580 million (EUR 3 485 870,21) was used to provide the company with working capital by paying off the debts incurred by Granjas Braut and Granjas Son Seat SAT when they were owners of AGAMA and ESP 205 million (EUR 1 232 074,81) was used to make redundancy payments to workers affected by staff cuts. This total of ESP 785 million (EUR 4 717 945,02) is the cost associated with the restructuring plan detailed in recital 15.
- (21) AGAMA considerably reduced staff numbers (from 244 in 1990 to 51 in 1997) and reduced its milk production capacity by 30 % (from 35 million litres in 1990 to 22 million litres in 1996). In fact:
- (a) the management totally ceased the production of pasteurised milk for which the company had bottling capacity of 15,5 million litres per year; the equipment removed was not replaced;
 - (b) the bottling of sterilised milk in glass bottles, for which the company had a capacity of 15 million litres per year, totally ceased;
 - (c) two Tetra Pak UHT TBA-300 machines were replaced by a single machine of better quality but with a capacity less than the sum of the two replaced.
- (22) In 1996, AGAMA began to make a profit (very small), but in 1998 profits rose to ESP 173 097 000 (EUR 1 040 333,92). Operating profits were ESP 93 743 000 (EUR 563 406,78) in 1996, ESP 6 212 000 (EUR 37 334,87) in 1997 and ESP 178 260 000 (EUR 1 071 364,18) in 1998. Turnover was ESP 2 093 million (EUR 12 579 183,35) in 1996, ESP 1 814 million (EUR 10 902 359,57) in 1997 and ESP 1 903 million (EUR 11 437 260,35) in 1998. At the end of 1996, the company was sold at the best price obtained in a public tendering procedure in which four private companies submitted tenders.
- (23) AGAMA obtained a postponement of the deadline for the payment of social security contributions to the Social Security Fund by Resolutions of 11 May 1992 and 3 June 1994. It paid interest at the statutory rate for the postponement and repaid the debt in 60 monthly instalments ending in June 1999.
- (24) In the absence of a reply from the Spanish authorities, the Commission initiated the procedure provided for in Article 88(2) of the Treaty and expressed its doubts about the guarantee given by the Government of the Balearic Islands on the loan granted to AGAMA by La Caixa, the injection of Government capital through the publicly owned company Semilla, the taking-over as a creditor of AGAMA's debts to financial institutions and

other credit institutions and the postponement of the deadline for repaying debts granted by the Social Security Fund. The Commission took the view that, unless the Spanish authorities could demonstrate to the contrary, all the sums granted to AGAMA by the Spanish authorities constituted State aid and therefore asked the Spanish authorities to specify the number of payments made and the amounts involved.

III. SPAIN'S COMMENTS

- (25) The Spanish authorities replied that they had not notified the Commission of the aid since, in their view, it was not State aid but rather the action of a private investor. In their opinion, the Government of the Balearic Islands' management of AGAMA had given excellent results.
- (26) In May 1991, following AGAMA's notification that it had suspended payments and given the social consequences of the decision (most dairy farms on the island sold their milk to AGAMA), Semilla, with the assistance of Inmark SL, a company specialising in business management, decided to buy AGAMA shares and implement the measures proposed in an Inmark SL study to guarantee the company's viability.
- (27) In April 1992, Semilla sold its shares in AGAMA to Granjas Braut and Granjas Son Seat SAT at a price slightly above what it had paid. When the buyers failed to make payment, Semilla cancelled the sales contract and imposed the maximum penalty. The operation produced an accounting loss of ESP 91 million (EUR 546 921,02) for Semilla. However, the Spanish authorities took the view that this was the least costly action a private creditor could take. The payments due totalled around ESP 500 million (EUR 3 005 060,52) and the loss to Semilla would have been much greater if it had not cancelled the contract.
- (28) After Semilla had reacquired AGAMA, the Government's intention was to restructure the company and sell it to the private sector at the best price, achieving a satisfactory return. It was decided to inject capital. AGAMA's other shareholders also injected capital. The Spanish authorities claim that this injection of capital shows that the Government acted in the same way as a private investor.
- (29) AGAMA obtained a loan of ESP 500 million (EUR 3 005 060,52) backed by a joint and several guarantee from the Government of the Balearic Islands. The loan was repaid in March 1998. During the same period, it took out unsecured loans from private financial institutions totalling approximately ESP 300 million (EUR 1 803 036,31), which were repaid in June 1999. According to the Spanish authorities, this was necessary in order to restructure the company.

(30) However, although the Commission considers these measures to be State aid, the Spanish authorities believe that they meet the criteria laid down by the Commission for restructuring aid, since:

(a) as regards restoring viability, Ernest & Young drew up a restructuring plan, containing all the necessary details, which was applied in full. Within a very short period AGAMA was again viable. Proof of this was the sale of AGAMA to the private sector at the end of 1996 by a public tendering procedure to the highest of four tenderers;

(b) as regards the prevention of distortions of trade, production capacity was definitively reduced by 30 % and staff numbers were cut. In addition, AGAMA never sold its products below cost price;

(c) as regards the need for the aid to be proportional to the costs and benefits of restructuring, the aid constituted a 'de minimis' plan, which consequently did not result in surplus liquidity, as can be seen from the company's accounts. The aid was not used to reduce the company's financial charges, since its accounts show liabilities of ESP 800 million (EUR 4 808 096,84). In addition, private financial institutions granted AGAMA loans of around ESP 300 million (EUR 1 803 036,31) without a Government guarantee;

(d) the restructuring plan was implemented in full, although it was not notified to the Commission since the Spanish authorities did not think it constituted State aid.

(31) As regards the complainant's charge that the State aid allowed AGAMA to sell its products at below cost price, the Spanish authorities have submitted AGAMA sales invoices proving that this was never the case. Nevertheless, it is possible that, from time to time, a few retailers did sell below cost price. However, this is part of the commercial strategy of the retailers concerned and cannot be blamed on AGAMA. A study made of the average price AGAMA charges for its milk has shown that the company does not sell below cost price.

(32) Government intervention in AGAMA also benefited milk producers, by enabling them to continue processing and marketing their milk despite the fact that being on an island prevents them supplying milk to neighbouring regions at a competitive price.

(33) The postponement of the deadline for the payment of social security contributions was granted by Decisions of 11 May 1992 and 3 June 1994, in accordance with the General Regulation on the collection of contributions and the resources of the social security system, approved

by Royal Decree 1937/1995. Article 40 of that Regulation provides for the postponement of repayment or the payment in instalments of debts owed to the Social Security Fund, both during the statutory repayment period and during enforced payment, on request by the debtors where their financial situation prevents payment of the debt concerned. Postponement is granted whenever a request is made in advance and the conditions laid down in the rules are met. The Social Security Fund concludes such agreements, which work to its advantage, in order to ensure that debts are paid. Interest at the statutory rate is paid for the period of postponement.

IV. ASSESSMENT OF THE AID

Article 87(1) of the Treaty

(34) Article 37 of Regulation (EC) No 1255/1999 lays down that Articles 87 and 88 of the Treaty apply to the production and marketing of products listed in Article 1 of that Regulation.

(35) Under Article 87(1) of the Treaty, 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, in so far as it affects trade between Member States, is incompatible with the common market.

(36) There is a considerable amount of trade in milk between Spain and the rest of the Community and the measures in question may therefore affect trade in milk between Member States and distort or threaten to distort competition by giving AGAMA preferential treatment.

Aid granted to AGAMA

First period

(37) During the first period (August 1990 to April 1992), the Spanish Government intervened in favour of AGAMA through the publicly owned company Semilla, which paid off ESP 176 million (EUR 1 057 781,30) of AGAMA's debts to financial institutions. Those institutions waived ESP 706 million (EUR 4 243 145,46), equal to 80 % of AGAMA's total debt of ESP 882 million (EUR 5 300 926,76).

(38) Semilla also advanced AGAMA ESP 272 million (EUR 1 634 752,92), equal to 85 % of the debt it owed to milk producers, who waived 15 % of the total of ESP 319 million (EUR 1 917 228,91) they were owed.

Semilla also bought 6 681 AGAMA shares from milk producers at the very advantageous price of ESP 1 700 or EUR 10,22 per share against a nominal value of ESP 10 000 or EUR 60,10 per share, i.e. for a total of approximately ESP 11 million (EUR 66 111,33), and paid ESP 1 million (EUR 6 010,12) for an option on 11 674 shares at a total price of ESP 71 million (EUR 426 718,59).

(39) Semilla injected capital of ESP 146 million (EUR 877 477,67) in AGAMA.

(40) Finally, in April 1992 Semilla sold its shares in AGAMA to Granjas Braut and Granjas Son Seat SAT for ESP 677 million (EUR 4 068 851,65), more than the Government investment in the company.

(41) Government intervention in favour of AGAMA during this period involved no financial cost to the State. On the contrary, a profit of ESP 71 million (EUR 426 718,59) was made over a period of 20 months on an investment of ESP 606 million (EUR 3 642 133,35).

(42) The Spanish authorities take the view that Government intervention in favour of AGAMA can be compared to the action of a private investor. That intervention was preceded by a viability study carried out by an outside consultant and resulted in a profit for the Government.

(43) In accordance with the Commission communication to Member States on public authorities' holdings in company capital (see Bulletin of the European Communities 9-1984), State aid exists where the public authorities contribute fresh capital to a company in circumstances that would not be acceptable to a private investor operating under normal market conditions. This is the case where the financial position of the company, and particularly the structure and volume of its debt, is such that a normal return (in dividends or capital gains) cannot be expected within a reasonable time from the capital invested.

(44) Given AGAMA's financial position, it is highly unlikely that the company would have been able to obtain capital on the capital market. No private company, basing its decision on the company's expected profits, would have provided capital.

(45) The Commission is of the opinion that, at that point, the Spanish Government could not be certain that the intervention would produce a profit since it had no detailed forecasts (the viability study did not contain a financial perspective with figures but simply specified the meas-

ures required to make AGAMA viable). The sale of the company at a price apparently higher than the cost of the intervention does not mean that the operation was not aid, particularly as the sale, which was subsequently cancelled, resulted in significant losses for the Government.

(46) Consequently, the Commission is of the opinion that the Government intervention in favour of AGAMA during this first period (from August 1990 to April 1992) cannot be considered to be the action of a private investor but as State aid within the meaning of Article 87(1) of the Treaty. The Commission also considers that the value of the aid was 100 % of the loans granted to AGAMA by Semilla, amounting to ESP 176 million and ESP 272 million, and 100 % of the injection of ESP 146 million and that the total aid was ESP 594 million (EUR 3 570 011,90).

Second period

(47) During the second period, the purchasers of AGAMA, after making an initial payment (approximately ESP 184 million or EUR 4 068 851,65) encountered financial difficulties and were unable to meet their financial commitments (approximately ESP 486 million or EUR 2 920 918,83) to Semilla arising from the sale. Under the circumstances, Semilla decided to cancel the contract and recover its shares in AGAMA, resulting in a loss of ESP 91 million (EUR 546 921,02). The loss would have been much greater had the contract not been cancelled. This action, intended to reduce the Government's losses to a minimum, was that of a private investor who, faced with external difficulties, chooses the least costly solution.

(48) After the Government had recovered AGAMA, the company faced financial difficulties because of the unsuccessful sale and a restructuring plan was therefore drawn up and implemented. This involved restructuring management and restructuring production with the aim of reducing and modernising it.

(49) It was decided to inject capital of ESP 548 million (EUR 3 293 546,33). The Government provided ESP 213 million (EUR 1 280 155,78) and the remaining sum of ESP 335 million (EUR 2 013 390,55) was obtaining by converting AGAMA's debt to Semilla into equity capital (to clear debts of approximately ESP 272 million (EUR 1 634 752,92) to milk producers

and around ESP 176 million (EUR 1 057 781,30) to financial institutions, after creditors waived a part of the debts concerned). However, since the Commission takes the view that 100 % of the loans granted to AGAMA in 1990 was aid, this conversion into equity capital cannot be regarded as new aid.

- (50) AGAMA's other shareholders (holding approximately 3 % of its capital) also injected capital in the same proportion as the Government, in accordance with their shareholding (approximately ESP 16 million or EUR 96 161,94). This capital injection was intended to restructure the company in order to sell it to the private sector and achieve a satisfactory return.
- (51) The fact that all the company's private shareholders also injected capital under the same conditions as the Government could support the claim that the Government acted in the same way as a private investor. However, in view of the small number of shares held by private shareholders, the injection of capital by the Government could be regarded as State aid and should be assessed as such.
- (52) The Government of the Balearic Islands gave a guarantee on a loan of ESP 500 million (EUR 3 005 060,52) granted to AGAMA by the La CAIXA financial institution⁽⁵⁾ in June 1994. The loan was repaid in March 1998. The guarantee constitutes State aid within the meaning of Article 87(1) of the Treaty. In a letter sent to the Member States (SG(89) D/4328 of 5 April 1989⁽⁶⁾), the Commission stated that Article 87(1) of the Treaty applied to all guarantees given by Governments.
- (53) In that letter, the Commission also specified that guarantees would be considered acceptable only if their mobilisation were made subject to specific conditions fixed by contract, including the possibility of compulsory declaration of bankruptcy by the beneficiary enterprise or an analogous procedure. Given that the Government of the Balearic Islands agreed to recover from AGAMA the sums covered by its guarantee should it be called upon, this requirement can be regarded as being fulfilled.

Postponement of the deadline for the payment of contributions granted by the Social Security Fund

- (54) AGAMA also obtained a postponement of the deadline for the payment of its social security contributions. It paid interest at the statutory rate for the postponement and repaid the debt in 60 monthly instalments ending in June 1999.

- (55) The General Social Security Act provides for the postponement of repayment and the payment in instalments of arrears in social security contributions or surcharges on contributions. A surcharge for delayed payment is levied on debts.

- (56) The Social Security Fund may allow the payment in instalments of arrears in social security contributions. The Fund acts as a public creditor which, in the same way as a private creditor, seeks to recover amounts owed to it and, in order to facilitate repayment, reaches agreements with debtors permitting repayment in instalments. The interest usually applicable to this type of debt is to offset the loss to the creditor caused by the debtor's delay in repaying the debt, i.e. interest on arrears (see judgment of the Court of Justice of the European Communities of 29 April 1999 in Case C-342/96, *Spain v Commission* ⁽⁷⁾).

- (57) According to the information supplied by the Spanish authorities, the Social Security Fund allows payment in instalments where debtors submit a request in advance, their economic circumstances prevent them repaying the debt and the conditions laid down in the rules are fulfilled. Any company with cash-flow problems receives the same terms. The Social Security Fund accepts such solutions, which work to its advantage, in order to ensure that it recovers its debts.

- (58) The facilities for the payment of social security contributions granted to a company on a discretionary basis by a body responsible for their collection constitutes State aid within the meaning of Article 87(1) of the Treaty where, given the size of the economic advantage conceded, the company could not have obtained comparable facilities from a private creditor in the same situation with regard to the company (see judgment of the Court of Justice of 29 June 1999 in Case C-256/97, *Démenagements-Manutention Transport* ⁽⁸⁾).

- (59) The Commission has verified that the action of the Social Security Fund enabled it to recover the total loan, in instalments, plus statutory interest, the debt being paid off in full in June 1999.

- (60) The Social Security Fund therefore acted in the same way as a private creditor acting to recover a debt. The Commission consequently concludes that the postponement of payment of AGAMA's debt to the Social Security Fund and application of the statutory interest rate to that debt do not constitute State aid within the meaning of Article 87(1) of the Treaty.

⁽⁵⁾ Without prejudice to the nature of the loan from La Caixa.

⁽⁶⁾ Letter to the Member States No SG (89) D/4327 dated 5 April 1989 was replaced by Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 71, 11.3.2000, p. 14).

⁽⁷⁾ [1999] ECR I-2459.

⁽⁸⁾ [1999] ECR I-3913.

Possible derogations from Article 87 of the Treaty

- (61) There are derogations from the principal of non-compatibility laid down in Article 87(1) of the Treaty.
- (62) Article 87(3)(c) lays down that aid to facilitate the development of certain economic activities or of certain economic areas that does not adversely affect trade to an extent contrary to the common interest can be considered to be compatible with the common market.
- (63) The aid scheme under examination must be assessed in the light of that subparagraph.

Assessment of the State aid granted

Rules applicable to the assessment of State aid

- (64) Government intervention in favour of AGAMA during the first period, in the form of an injection of capital, taking-over of AGAMA's debt and the purchase of shares, and during the second period, in the form of an injection of capital and the provision of a guarantee, constitute State aid. The Commission therefore examined whether it fulfilled its criteria for that type of aid.
- (65) Paragraph 101 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁹⁾, in force since 9 October 1999, states that the Commission will examine the compatibility with the common market of any rescue or restructuring aid granted in breach of Article 88(3) of the Treaty on the basis of the guidelines in force at the time the aid is granted.
- (66) Prior to the introduction of the above guidelines, the rules applicable were laid down in the Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽¹⁰⁾, in force from their publication in the *Official Journal of the European Communities*, on 23 December 1994. The Commission referred to those guidelines in its letter dated 16 May 1997, since they were the ones in force at the time and, in the absence of a reply from the Spanish authorities, the Commission did not have details of either the amounts of aid granted to AGAMA or the dates on which they were granted.
- (67) However, all the aid AGAMA received was granted before the letter was sent. At the time the aids were granted, the Commission was applying in the agricultural sector, by analogy ⁽¹¹⁾, the principles set out in paragraph 228 of the eighth report on competition policy ⁽¹²⁾, which are that the aid must be strictly condi-

tional on the implementation of a restructuring or conversion plan that, in the long term, effectively restores the competitiveness of the product concerned and that the aid must be limited to the strict minimum needed to keep the company in balance during the inevitable transitional period before such a programme takes effect, which is a clearly defined period.

- (68) The principle of 'one-off' aid ('one time, last time') did not yet exist. The Commission can therefore assess the two Government interventions in favour of AGAMA separately. It should also be pointed out that the financial difficulties experienced by Granjas Braut SA and Granjas Son Seat SAT and their inability to complete the purchase of AGAMA were not the fault of AGAMA and neither could the latter have easily foreseen those problems.

Assessment of the aid

- (69) With regard to the first Government intervention in favour of AGAMA, an external consultant carried out a viability study which set out the measures that needed to be implemented: a substantial reduction in staff numbers, renegotiation of the company's debt with its creditors, which resulted in the waiving of a substantial proportion of its debt, and injection of capital by the Government. The measures were implemented and the company regained viability and could be sold within 20 months for a sum greater than the cost of the Government intervention. A restructuring process could therefore be said to have begun.
- (70) The Government intervention involved no financial cost to the Government but, on the contrary, produced a profit of ESP 71 million (EUR 426 718,59). In actual fact, the Government intervention in AGAMA, which was later sold for ESP 677 million (EUR 4 068 851,65), cost a total of ESP 663 million (EUR 3 984 710,25), i.e. ESP 606 million (EUR 3 642 133,35) plus interest, which breaks down as follows: loans of ESP 176 million (EUR 1 057 781,30) for the payment of debts to private financial institutions and ESP 272 million (EUR 1 634 752,92) for the payment of debts to milk producers and an injection of working capital of ESP 146 million (EUR 877 477,67). In addition, ESP 11 million (EUR 66 111,33) was paid to buy shares and ESP 1 million (EUR 6 010,12) for a purchase option. Even if 100 % of each of the loans is regarded as aid, together with the injection of capital (given the company's difficult situation when the loans were granted), this gives total aid of ESP 594 million (EUR 3 570 011,90).

⁽⁹⁾ OJ C 288, 9.10.1999, p. 2.

⁽¹⁰⁾ OJ C 368, 23.12.1994, p. 12.

⁽¹¹⁾ Precedents: Commission Decisions 93/133/EEC (OJ L 55, 6.3.1993, p. 54), confirmed by judgment of the Court of Justice of 14 September 1994 in Case C-42/93 Spain v Commission ([1994] ECR I-4175), and 94/343/EC (OJ L 154, 21.6.1994 p. 37).

⁽¹²⁾ Competition law in the European Communities, volume II: Rules applicable to State aids (situation at 31 December 1989), p. 153.

- (71) The aid granted to AGAMA in the first Government intervention therefore fulfilled the Commission's criteria for this type of aid at the time it was granted.
- (72) With regard to the second Government intervention, the restructuring plan implemented permitted the company to achieve long-term viability within a reasonable time span. This is demonstrated by the fact that by 1996 the company was making a small profit, which increased to ESP 173 097 000 (EUR 1 040 333,92) in 1998, and that a number of private investors showed interest in buying the company, which was finally sold to the highest private bidder at the end of 1996. AGAMA was sold through a publicised and unconditional public tendering procedure and the sale did not therefore involve State aid.
- (73) Moreover, the amount of aid was the strict minimum needed to keep the company in balance, as can be seen from the company's accounts, and the aid was proportional to the costs and benefits of restructuring. In addition, it was not used to finance new investment unconnected with restructuring or to reduce by an excessive amount the company's financial charges.
- (74) The Government contributed to the restructuring plan by guaranteeing a loan of ESP 500 million (EUR 3 005 060,52) obtained by the company and injecting capital of ESP 213 million (EUR 1 280 155,78) as a shareholder of the company. A part of that capital injection was made by converting a debt of ESP 335 million (EUR 2 013 390,55) into equity capital. However, since the Commission takes the view that 100 % of the loans granted to AGAMA in 1990 was aid, this conversion into equity capital cannot be regarded as new aid.
- (75) For its part, in addition to the capital injected by private investors (ESP 16 million), AGAMA itself contributed to implementing the restructuring plan by means of two loans obtained from financial institutions. One of these, for ESP 500 million (EUR 3 005 060,52), was guaranteed by the Government, the other, for ESP 300 million (EUR 1 803 036,31), was not guaranteed. The company paid off the loans in March 1998 and June 1999 respectively.
- (76) The costs of restructuring AGAMA were principally redundancy payments to workers totalling ESP 205 million (EUR 1 232 074,81) and the provision of working capital by paying off debts incurred by the former owners (Granjas Braut SA and Granjas Son Seat SAT) before the Government took over the company. Those debts amounted to ESP 580 million (EUR 3 485 870,21).
- (77) The Commission therefore considers that the total value of the State aid granted to AGAMA was proportional to the cost of restructuring and that the company contributed to an adequate extent to that restructuring.
- (78) Consequently, the aid granted to AGAMA in the second Government intervention also fulfilled the Commission's criteria for this type of aid at the time it was granted.
- (79) In addition, it should be pointed out that, the fact that the territory is an island prevents milk being transported to neighbouring regions at a competitive price, Government intervention in AGAMA also benefited milk producers by allowing them to continue processing and marketing their production. Furthermore, because the territory is an island, AGAMA always has a market for its products, despite the sector having surplus capacity.
- (80) Finally, it must be stressed that, although at the time the aid was granted the Commission's criteria did not oblige AGAMA to take measures to mitigate as far as possible any adverse effects of the aid on competitors, the company did in fact do so by making a considerable cut in its production capacity (30 %) and its staff numbers (cut from 244 to 51). In addition, according to the documentation submitted by the Spanish authorities, AGAMA did not sell its products at below cost price.

V. CONCLUSION

- (81) The Commission concludes that Spain granted the aid in question illegally, in infringement of Article 88(3) of the Treaty. Nevertheless, the Commission takes the view that the aid for restructuring AGAMA fulfilled the Commission's criteria for this type of aid at the time it was granted and that it is therefore eligible for the derogation provided for in Article 87(3)(c) of the Treaty, being aid to facilitate the development of the sector concerned without adversely affecting trading conditions to an extent contrary to the common interest,

HAS ADOPTED THIS DECISION:

Article 1

The State aid granted by Spain to Asociación General Agraria Mallorca SA is compatible with the common market.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 16 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION
of 16 October 2000
on additional Community financial aid towards the eradication of classical swine fever in Belgium
in 1997 and 1998

(notified under document number C(2000) 3011)

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(2000/632/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC ⁽¹⁾ of 26 June 1990 on expenditure in the veterinary field, as last amended by Regulation (EC) No 1258/1999 ⁽²⁾, and in particular Article 3(3) and (5) and Article 6 thereof,

Whereas:

- (1) Outbreaks of classical swine fever occurred in Belgium in July 1997. The appearance of the disease represents a serious danger to community pig stocks. With a view to contributing towards the speedy eradication of the disease the Community is able to contribute to expenditure incurred by the Member State for losses suffered.
- (2) On 3 June 1998 Belgium presented an application for reimbursement of all the expenditure incurred within the country in 1997 and 1998, supplementing the application with further data received on 18 January 2000.
- (3) The Commission has adopted Decisions 98/61/EC ⁽³⁾, 98/674/EC ⁽⁴⁾ on Community financial aid towards the eradication of classical swine fever and Decision 1999/20/EC ⁽⁵⁾ on the prevention of classical swine fever. Three tranches by way of advance payments have been paid under those Decisions, for a total of EUR 3,15 million.
- (4) It is now necessary to fix the amount of the final tranche of Community financial aid.
- (5) The Commission has verified that all the Community veterinary rules have been applied and that all the condi-

tions attaching to Community financial aid have been observed.

- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

A fourth and final tranche of a maximum of EUR 365 000 shall be available to Belgium by way of Community financial aid for eligible expenditure incurred towards eradicating outbreaks of classical swine fever in 1997 and 1998.

Article 2

The balance of the Community financial aid shall be paid to Belgium once this Decision has been adopted.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 16 October 2000.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 16, 21.1.1998, p. 39.

⁽⁴⁾ OJ L 317, 26.11.1998, p. 41.

⁽⁵⁾ OJ L 6, 12.1.1999, p. 22.

COMMISSION DECISION
of 17 October 2000
amending its Rules of Procedure

(2000/633/EC, ECSC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 218(2) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 16 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

Having regard to the Treaty on the European Union, and in particular Articles 28(1) and 41(1) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The rules of Procedure of the Commission are hereby amended as follows:

1. In Article 23, the following paragraph is added:

‘The Commission may adopt supplementary measures relating to the functioning of the Commission and of its

departments, which shall be annexed to these Rules of Procedure.’

2. The Code of Good Administrative Behaviour contained in the Annex to this Decision is annexed.

Article 2

This Decision shall enter into force on 1 November 2000.

Article 3

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

Done at Brussels, 17 October 2000.

For the Commission

The President

Romano PRODI

ANNEX

'ANNEX

CODE OF GOOD ADMINISTRATIVE BEHAVIOUR FOR STAFF OF THE EUROPEAN COMMISSION IN THEIR RELATIONS WITH THE PUBLIC**Quality service**

The Commission and its staff have a duty to serve the Community interest and, in so doing, the public interest.

The public legitimately expects quality service and an administration that is open, accessible and properly run.

Quality service calls for the Commission and its staff to be courteous, objective and impartial.

Purpose

In order to enable the Commission to meet its obligations of good administrative behaviour and in particular in the dealings that the Commission has with the public, the Commission undertakes to observe the standards of good administrative behaviour set out in this Code and to be guided by these in its daily work.

Scope

The Code is binding on all staff covered by the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities (hereinafter referred to as the "Staff Regulations") and the other provisions on relations between the Commission and its staff that are applicable to officials and other servants of the European Communities. However, persons employed under private law contracts, experts on secondment from national civil services and trainees, etc. working for the Commission should also be guided by it in their daily work.

Relations between the Commission and its staff are governed exclusively by the Staff Regulations.

1. GENERAL PRINCIPLES OF GOOD ADMINISTRATION

The Commission respects the following general principles in its relations with the public.

Lawfulness

The Commission acts in accordance with the law and applies the Rules and Procedures laid down in Community legislation.

Non-discrimination and equal treatment

The Commission respects the principle of non-discrimination and in particular, guarantees equal treatment for members of the public irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation. Thus, differences in treatment of similar cases must be specifically warranted by the relevant features of the particular case in hand.

Proportionality

The Commission ensures that the measures taken are proportional to the aim pursued.

In particular, the Commission will ensure that the applications of this Code never leads to the imposition of administrative or budgetary burdens out of proportion to the benefit expected.

Consistency

The Commission shall be consistent in its administrative behaviour and shall follow its normal practice. Any exceptions to this principle must be duly justified.

2. GUIDELINES FOR GOOD ADMINISTRATIVE BEHAVIOUR*Objectivity and impartiality*

Staff shall always act objectively and impartially, in the Community interest and for the public good. They shall act independently within the framework of the policy fixed by the Commission and their conduct shall never be guided by personal or national interest or political pressure.

Information on administrative procedures

Where a member of the public requires information relating to a Commission administrative procedure, staff shall ensure that this information is provided within the deadline fixed for the relevant procedure.

3. INFORMATION ON THE RIGHTS OF INTERESTED PARTIES

Listening to all parties with a direct interest

Where Community law provides that interested parties should be heard, staff shall ensure that an opportunity is given to them to make their views known.

Duty of justify decisions

A Commission decision should clearly state the reasons on which it is based and should be communicated to the persons and parties concerned.

As a general rule, full justification for decisions should be given. However, where it may not be possible, for example because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of individual decisions, standard replies may be given. These standard replies should include the principal reasons justifying the decision taken. Furthermore, an interested party who expressly requests a detailed justification shall be provided with it.

Duty to state arrangements for appeals

Where Community law so provides, decisions notified shall clearly state that an appeal is possible and describe how to submit it, (the name and office address of the person or department with whom the appeal must be lodged and the deadline for lodging it).

Where appropriate, decisions should refer to the possibility of starting judicial proceedings and/or of lodging a complaint with the European Ombudsman in accordance with Article 230 or 195 of the Treaty establishing the European Community.

4. DEALING WITH ENQUIRIES

The Commission undertakes to answer enquiries in the most appropriate manner and as quickly as possible.

Requests for documents

If a document has already been published, the person making the enquiry should be directed to the sales agents of the Office for Official Publications of the European Communities or to the documentation or information centres which provide free access to documents, such as Info-Points, European documentation centres, etc. Many documents are also easily accessible in electronic form.

The rules on access to documents are laid down in a specific measure.

Correspondence

In accordance with Article 21 of the Treaty establishing the European Community, the Commission shall reply to letters in the language of the initial letter, provided that it was written in one of the official languages of the Community.

A reply to a letter addressed to the Commission shall be sent within 15 working days from the date of receipt of the letter by the responsible Commission department. The reply should identify the person responsible for the matter and state how he or she may be contacted.

If a reply cannot be sent within 15 working days, and in all cases where the reply requires other work on it, such as interdepartmental consultation or translation, the member of staff responsible should send a holding reply, indicating a date by which the addressee may expect to be sent a reply in the light of this additional work, taking into account the relative urgency and complexity of the matter.

If the reply is to be drawn up by a department other than the one to which the initial correspondence is addressed, the person making the enquiry should be informed of the name and office address of the person to whom the letter has been passed.

These rules do not apply to correspondence which can reasonably be regarded as improper, for example, because it is repetitive, abusive and/or pointless. Then the Commission reserves the right to discontinue any such exchanges of correspondence.

Telephone communication

When answering the telephone, staff shall identify themselves or their department. They shall return telephone calls as promptly as possible.

Staff replying to enquiries shall provide information on subjects for which they have direct responsibility and should direct the caller to the specific appropriate source in other cases. If necessary, they should refer callers to their superior or consult him or her before giving the information.

Where enquiries concern areas for which staff are directly responsible, they shall establish the identity of the caller and check whether the information has already been made public before giving it out. If this is not the case, the member of staff may consider that it is not in the Community interest for the information to be disclosed. In this case he or she should explain why they are unable to disclose it and refer in appropriate cases to the obligation to exercise discretion as laid down in Article 17 of the Staff Regulations.

When appropriate, staff should request confirmation in writing of the enquiries made by telephone.

Electronic mail

Staff shall reply to e-mail messages promptly following the guidelines described in the section on telephone communication.

However, where the e-mail message is, by its nature, the equivalent of a letter, it shall be handled according to the guidelines for handling correspondence and shall be subject to the same deadlines.

Requests from the media

The Press and Communication Service is responsible for contacts with the media. However, when requests for information concern technical subjects falling within their specific areas of responsibility, staff may answer them.

5. PROTECTION OF PERSONAL DATA AND CONFIDENTIAL INFORMATION

The Commission and its staff shall respect, in particular:

- the rules on the protection of personal privacy and personal data,
- the obligations set out in Article 287 of the Treaty establishing the European Community and in particular those which relate to professional secrecy,
- the rules on secrecy in criminal investigations,
- the confidentiality of matters falling within the ambit of the various committees and bodies provided for in Article 9 of and Annexes II and III to the Staff Regulations.

6. COMPLAINTS

The European Commission

Complaints may be lodged concerning a possible breach of the principles set out in this Code directly with the Secretariat-General of the European Commission, which shall forward it to the relevant department.

The Director-General or head of Department shall reply to the complainant in writing, within two months. The complainant then has one month in which to apply to the Secretary-General of the European Commission to review the outcome of the complaint. The Secretary-General shall reply to the request for a review within one month.

The European Ombudsman

Complaints may also be lodged with the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.'
