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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 260/2002
of 13 February 2002
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 14 February 2002.

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

Done at Brussels, 13 February 2002.

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 13 February 2002 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	112,6
	204	74,8
	212	144,5
	608	21,1
	999	88,3
0707 00 05	052	181,1
	628	223,4
	999	202,3
0709 90 70	052	184,6
	204	115,0
	999	149,8
0805 10 10, 0805 10 30, 0805 10 50	052	53,2
	204	49,7
	212	39,5
	220	45,7
	421	30,4
	508	23,9
	624	50,8
	999	41,9
0805 20 10	052	92,6
	204	79,4
	999	86,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	64,7
	204	78,8
	220	59,3
	464	140,4
	600	103,4
	624	78,1
	999	87,5
	052	60,0
0805 50 10	220	43,3
	600	47,4
	999	50,2
	060	41,6
0808 10 20, 0808 10 50, 0808 10 90	400	129,0
	404	94,7
	720	114,7
	728	116,6
	999	99,3
	388	106,4
	400	114,6
0808 20 50	528	112,7
	999	111,2

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 261/2002
of 13 February 2002
amending the corrective amount applicable to the refund on cereals

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(8) thereof,

Whereas:

- (1) The corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 202/2002 ⁽³⁾.
- (2) On the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered.

- (3) The corrective amount must be fixed according to the same procedure as the refund. It may be altered in the period between fixings,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 February 2002.

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

Done at Brussels, 13 February 2002.

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 31, 1.2.2002, p. 73.

ANNEX

to the Commission Regulation of 13 February 2002 amending the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	C01	—	-0,93	-1,86	-2,79	-2,79	—	—
1002 00 00 9000	C03	-30,00	-30,00	-30,00	-30,00	-30,00	—	—
	A05	0,00	0,00	0,00	0,00	0,00	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	A00	—	-0,93	-1,86	-2,79	-2,79	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	-0,93	-1,86	-2,79	-2,79	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	-0,93	-1,86	-2,79	-2,79	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	C01	0	-1,27	-2,55	-3,82	-3,82	—	—
1101 00 15 9130	C01	0	-1,19	-2,38	-3,57	-3,57	—	—
1101 00 15 9150	C01	0	-1,10	-2,19	-3,29	-3,29	—	—
1101 00 15 9170	C01	0	-1,01	-2,03	-3,04	-3,04	—	—
1101 00 15 9180	C01	0	-0,95	-1,90	-2,85	-2,85	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	C01	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9700	C01	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	-1,40	-2,79	-4,19	-4,19	—	—
1103 11 10 9400	A00	0	-1,25	-2,49	-3,74	-3,74	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	-1,27	-2,55	-3,82	-3,82	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are as follows:

C01 All destinations except for Poland,

C03 Poland, Czech Republic, Slovak Republic, Hungary, Estonia, Latvia, Lithuania, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Slovenia, former Republic of Yugoslavia with the exception of Slovenia, Croatia and Bosnia and Herzegovina, Albania, Romania, Bulgaria, Armenia, Georgia, Azerbaijan, Moldova, Ukraine, Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, Turkmenistan, Morocco, Algeria, Tunisia, Libya, Egypt, Malta, Cyprus and Turkey,

A05 other non-member countries.

COMMISSION REGULATION (EC) No 262/2002**of 12 February 2002****establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 993/2001 ⁽⁴⁾, and in particular Article 173(1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 February 2002.

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

Done at Brussels, 12 February 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 311, 12.12.2000, p. 17.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 141, 28.5.2001, p. 1.

ANNEX

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.10	New potatoes 0701 90 50	52,46	389,69	485,80	32,44
1.30	Onions (other than seed) 0703 10 19	29,06	215,86	269,10	17,97
1.40	Garlic 0703 20 00	166,83	1 239,23	1 544,88	103,15
1.50	Leeks ex 0703 90 00	75,30	559,34	697,30	46,56
1.60	Cauliflowers 0704 10 00	55,28	410,62	511,90	34,18
1.80	White cabbages and red cabbages 0704 90 10	66,66	495,15	617,28	41,22
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	61,43	456,30	568,85	37,98
1.100	Chinese cabbage ex 0704 90 90	56,49	419,61	523,10	34,93
1.110	Cabbage lettuce (head lettuce) 0705 11 00	90,36	671,19	836,74	55,87
1.130	Carrots ex 0706 10 00	72,17	536,08	668,30	44,62
1.140	Radishes ex 0706 90 90	104,61	777,04	968,70	64,68
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	371,98	2 763,03	3 444,53	229,99
1.170	Beans:				
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	194,76	1 446,70	1 803,53	120,42
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 00	202,62	1 505,06	1 876,28	125,28
1.180	Broad beans ex 0708 90 00	157,74	1 171,69	1 460,69	97,53
1.190	Globe artichokes 0709 10 00	—	—	—	—
1.200	Asparagus:				
1.200.1	— green ex 0709 20 00	588,15	4 368,77	5 446,32	363,65
1.200.2	— other ex 0709 20 00	240,83	1 788,89	2 230,11	148,91
1.210	Aubergines (eggplants) 0709 30 00	129,48	961,79	1 199,02	80,06

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	98,68	733,00	913,79	61,01
1.230	Chantarelles 0709 51 30	744,83	5 532,60	6 897,20	460,53
1.240	Sweet peppers 0709 60 10	165,99	1 232,97	1 537,08	102,63
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	78,81	585,37	729,75	48,73
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	176,48	1 310,89	1 634,22	109,12
2.30	Pineapples, fresh ex 0804 30 00	88,48	657,20	819,29	54,70
2.40	Avocados, fresh ex 0804 40 00	132,91	987,23	1 230,72	82,18
2.50	Guavas and mangoes, fresh ex 0804 50 00	108,39	805,13	1 003,71	67,02
2.60	Sweet oranges, fresh:				
2.60.1	— Sanguines and semi-sanguines 0805 10 10	—	—	—	—
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	—	—	—	—
2.60.3	— Others 0805 10 50	—	—	—	—
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:				
2.70.1	— Clementines ex 0805 20 10	—	—	—	—
2.70.2	— Monreales and satsumas ex 0805 20 30	—	—	—	—
2.70.3	— Mandarines and wilkings ex 0805 20 50	—	—	—	—
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	—	—	—	—
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh ex 0805 30 90 ex 0805 90 00	112,97	839,14	1 046,11	69,85
2.90	Grapefruit, fresh:				
2.90.1	— white ex 0805 40 00	60,01	445,72	555,66	37,10
2.90.2	— pink ex 0805 40 00	63,98	475,24	592,45	39,56

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.100	Table grapes 0806 10 10	185,19	1 375,61	1 714,90	114,50
2.110	Water melons 0807 11 00	37,56	279,00	347,81	23,22
2.120	Melons (other than water melons):				
2.120.1	— Amarillo, cuper, honey dew (including cantalene), ontentiente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	65,68	487,89	608,23	40,61
2.120.2	— Other ex 0807 19 00	208,52	1 548,88	1 930,90	128,93
2.140	Pears				
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	—	—	—	—
2.140.2	Other ex 0808 20 50	—	—	—	—
2.150	Apricots ex 0809 10 00	163,18	1 212,07	1 511,02	100,89
2.160	Cherries 0809 20 95 0809 20 05	435,72	3 236,56	4 034,85	269,41
2.170	Peaches 0809 30 90	277,01	2 057,64	2 565,15	171,28
2.180	Nectarines ex 0809 30 10	138,44	1 028,34	1 281,98	85,60
2.190	Plums 0809 40 05	170,00	1 262,79	1 574,26	105,11
2.200	Strawberries 0810 10 00	290,63	2 158,83	2 691,30	179,70
2.205	Raspberries 0810 20 10	848,90	6 305,63	7 860,90	524,87
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	1 598,12	11 870,84	14 798,75	988,12
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	127,40	946,33	1 179,74	78,77
2.230	Pomegranates ex 0810 90 85	121,90	905,49	1 128,83	75,37
2.240	Khakis (including sharon fruit) ex 0810 90 85	243,36	1 807,71	2 253,58	150,47
2.250	Lychees ex 0810 90 30	164,95	1 225,24	1 527,45	101,99

COMMISSION REGULATION (EC) No 263/2002

of 13 February 2002

amending Regulation (EC) No 2550/2001 laying down detailed rules for the application of Council Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽¹⁾, and in particular Article 9 thereof,

Having regard to Council Regulation (EC) No 2529/2001 of 19 December 2001 on the common organisation of the market in sheepmeat and goatmeat ⁽²⁾, and in particular Article 4(6), Article 5(4) and Article 11(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 2550/2001 ⁽³⁾ lays down detailed rules for the application of Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes, but does not define how the conversion of the premiums and payments into the national currency in the Member States not having adopted the euro should be carried out. For that reason there is a need to define the method of conversion into national currencies and in particular the operative event and the exchange rate applicable.

(2) As to the operative event, for applying the criteria set forth in Article 3(2) of Regulation (EC) No 2799/98, it is appropriate to define it as the first day of the calendar year for which the premia are paid. As to the exchange rate to apply, Commission Regulation (EC) No 2808/98 ⁽⁴⁾, as last amended by Regulation (EC) No 2452/2000 ⁽⁵⁾, lays down detailed rules for the application of the agrimonetary system for the euro in agriculture. Article 1 of this Regulation states that the exchange rate to be used shall be the rate most recently fixed by the European Central Bank (ECB) prior to the operative event.

(3) However, for the purposes of attaining the goals of the sheep and goat common market organisation, the rate applicable on the date of the operative event should be

fixed in such a way as to ensure in principle that such aids, premiums and amounts do not undergo any sharp fluctuations on conversion into national currency due to the exchange rate on a single date. To this end, the best solution appears to be an average of the exchange rates applicable during the month preceding the year in respect of which the premium is granted, calculated *pro rata temporis*.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Sheep and Goats Management Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The following Article is hereby added to Regulation (EC) No 2550/2001:

'CHAPTER IIIa

GENERAL PROVISIONS

Article 18a

Conversion into national currency

The operative event for the exchange rate to be applied to the amount of the premiums and payments referred to in Articles 4, 5 and 11 of Regulation (EC) No 2529/2001 shall be the commencement of the calendar year in respect of which the premium or payment is granted.

The exchange rate to be used shall be the average of the exchange rates applicable in the month of December preceding the date of the operative event, calculated *pro rata temporis*. It shall be fixed by the Commission during the month following the date of the operative event.'

Article 2

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

It shall apply from 1 January 2002.

⁽¹⁾ OJ L 349, 24.12.1998, p. 1.

⁽²⁾ OJ L 341, 22.12.2001, p. 3.

⁽³⁾ OJ L 341, 22.12.2001, p. 105.

⁽⁴⁾ OJ L 349, 24.12.1998, p. 36.

⁽⁵⁾ OJ L 282, 8.11.2000, p. 9.

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

Done at Brussels, 13 February 2002.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 264/2002

of 13 February 2002

laying down transitional measures for the application of premium schemes in the sheepmeat and goatmeat sectors

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2529/2001 of 19 December 2001 on the common organisation of the market in sheepmeat and goatmeat ⁽¹⁾, and in particular Article 30 thereof,

Whereas:

(1) Article 3 of Regulation (EC) No 2529/2001 contains a definition of 'producer', which differs with regard to producer groups from the definition that was applicable in respect of the sheepmeat and goatmeat premium schemes before 2002 under Council Regulations (EEC) No 2644/80 of 14 October 1980 laying down general rules for intervention with regard to the sheepmeat and goatmeat sector ⁽²⁾, (EEC) No 3901/89 of 12 December 1989 defining lambs fattened as heavy carcasses ⁽³⁾, as amended by Regulation (EC) No 1266/95 ⁽⁴⁾, (EEC) No 1323/90 of 14 May 1990 instituting specific aid for sheep and goat farming in certain less-favoured areas of the Community ⁽⁵⁾, as last amended by Regulation (EC) No 193/98 ⁽⁶⁾, (EEC) No 3493/90 of 27 November 1990 laying down general rules for the granting of premiums to sheepmeat and goatmeat producers ⁽⁷⁾, as last amended by Regulation (EC) No 2825/2000 ⁽⁸⁾, (EEC) No 338/91 of 5 February 1991 determining the Community standard quality of fresh or chilled sheep carcasses ⁽⁹⁾, as last amended by Regulation (EC) No 2536/97 ⁽¹⁰⁾, and (EC) No 2467/98 of 3 November 1998 on the common organisation of the market in sheepmeat and goatmeat ⁽¹¹⁾, as amended by Regulation (EC) No 1669/2000 ⁽¹²⁾. Consequently it is necessary to provide for transitional arrangements with regard to producer groups, as defined under the previous rules but which do not conform to the new definition of producer.

(2) It is therefore necessary to permit applications for the premium for 2002 to be made by producer groups on behalf of producers, as defined in Article 3(a) of Regulation (EC) No 2529/2001.

- (3) As far as irregularities are concerned reductions and exclusions should be applied to the producer group as such. However, where they are applicable in respect of subsequent years as a consequence of intentional non-compliance they should be applied to the producers who were members of the group when the irregularity was committed, even though they may no longer form part of the group.
- (4) Article 2(3) of Commission Regulation (EC) No 2550/2001 ⁽¹³⁾, which sets down the retention period during which the producer undertakes to keep on his holding the number of ewes and/or goats in respect of which the premium is requested, states that this period shall start on the day following the last day of the period for the submission of premium applications. Under the rules that were applicable in respect of the sheepmeat and goatmeat premium schemes before 2002 the retention period began on the last day of the period for the submission of applications. In certain cases Member States have been unable to adapt to the new provisions given the dates of adoption of Regulations (EC) No 2529/2001 and (EC) No 2550/2001. Consequently it is necessary to provide for transitional arrangements with regard to the fixing of the retention period.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sheep and Goats,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for the premium in respect of 2002 may be submitted on behalf of producers by producer groups that were recognised as such by Member States in respect of applications submitted for the 2001 marketing year but which do not conform to the definition of 'producer' in Article 3(a) of Regulation (EC) No 2529/2001.

In such cases the producer group must submit a single premium application, which must be signed by all the producers belonging to the group. Premium applications must state the number of animals brought to the group by each producer. The premium shall be paid directly to the group.

⁽¹⁾ OJ L 341, 22.12.2001, p. 3.

⁽²⁾ OJ L 275, 18.10.1980, p. 8.

⁽³⁾ OJ L 375, 23.12.1989, p. 4.

⁽⁴⁾ OJ L 123, 3.6.1995, p. 3.

⁽⁵⁾ OJ L 132, 23.5.1990, p. 17.

⁽⁶⁾ OJ L 20, 27.1.1998, p. 18.

⁽⁷⁾ OJ L 337, 4.12.1990, p. 7.

⁽⁸⁾ OJ L 328, 23.12.2000, p. 1.

⁽⁹⁾ OJ L 41, 14.2.1991, p. 1.

⁽¹⁰⁾ OJ L 347, 18.12.1997, p. 6.

⁽¹¹⁾ OJ L 312, 20.11.1998, p. 1.

⁽¹²⁾ OJ L 193, 29.7.2000, p. 8.

⁽¹³⁾ OJ L 341, 22.12.2001, p. 105.

2. The producers shall remain subject to all the other obligations imposed by Regulation (EC) No 2550/2001.

Article 2

With regard to applications for the premium in respect of 2002 the rules on reductions and exclusions referred to in Article 40 of Commission Regulation (EC) No 2419/2001 ⁽¹⁾ shall apply to the producer group referred to in Article 1(1) first subparagraph as such. However, the reductions and exclusions provided for in that Article in the event of intentional non-compliance shall also apply to those producers, who were members of the producer group when the irregularity was committed and who, while remaining producers in subsequent years, no longer form part of the group.

Article 3

Notwithstanding the provisions of Article 2(3) of Regulation (EC) No 2550/2001 Member States may decide that for 2002 the retention period during which the producer undertakes to keep on his holding the number of ewes and/or goats in respect of which the premium is requested shall start on the last day of the period for the submission of premium applications.

Article 4

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

Articles 1 and 3 shall only apply in relation to the 2002 calendar year.

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

Done at Brussels, 13 February 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 327, 12.12.2001, p. 11.

COMMISSION REGULATION (EC) No 265/2002
of 13 February 2002
amending Regulation (EEC) No 2742/90 laying down detailed rules for the application of Council
Regulation (EEC) No 2204/90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2204/90 of 24 July 1990 laying down additional general rules on the common organization of the market in milk and milk products as regards cheese ⁽¹⁾, as amended by Regulation (EC) No 2583/2001 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 3(3) of Regulation (EEC) No 2204/90 provides for a penalty in cases where caseins and/or caseinates are used without authorisation in the manufacture of cheese. The Community penalty is equal to 110 % of the difference between the value of the skimmed milk needed to make 100 kg of caseins and/or caseinates resulting from the market price for skimmed-milk powder on the one hand and for caseins and caseinates on the other.
- (2) Article 4(1) of Commission Regulation (EEC) No 2742/90 ⁽³⁾, as last amended by Regulation (EC) No 78/96 ⁽⁴⁾, fixes the sum due for the quantities of casein and/or caseinates used without authorisation in the manufacture of cheese at EUR 183 per 100 kg, having regard to the prices for caseins and caseinates recorded on the markets in the second half of 1995. That sum should be reduced in view of the market price of skimmed-milk

powder and the market price of caseins and caseinates recorded in the last quarter of 2001.

- (3) The prices recorded on the markets in the last quarter of 2001 are EUR 206,96 per 100 kg for skimmed-milk powder and EUR 562,00 per 100 kg for caseins and caseinates.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Article 4(1) of Regulation (EEC) No 2742/90 is replaced by the following:

‘1. The sum due in accordance with Article 3(3) of Regulation (EEC) No 2204/90 shall be EUR 65,00 per 100 kg of caseins and/or caseinates, having regard to the price of skimmed-milk powder and the price of caseins and caseinates recorded on the market in the last quarter of 2001.’

Article 2

This Regulation shall enter into force on the fifth 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, 13 February 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 201, 31.7.1990, p. 7.

⁽²⁾ OJ L 345, 29.12.2001, p. 6.

⁽³⁾ OJ L 264, 27.9.1990, p. 20.

⁽⁴⁾ OJ L 15, 20.1.1996, p. 15.

COMMISSION REGULATION (EC) No 266/2002
of 13 February 2002
fixing the import duties in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1987/2001 ⁽²⁾,

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

Whereas:

- (1) Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties.
- (2) Pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.

- (3) Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector.
- (4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 February 2002.

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

Done at Brussels, 13 February 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 271, 12.10.2001, p. 5.

⁽³⁾ OJ L 189, 30.7.1996, p. 71.

⁽⁴⁾ OJ L 351, 29.12.1998, p. 25.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽¹⁾				
	Third countries (except ACP and Bangladesh) ⁽²⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	69,51	101,16		158,25
1006 10 23	(7)	69,51	101,16		158,25
1006 10 25	(7)	69,51	101,16		158,25
1006 10 27	(7)	69,51	101,16		158,25
1006 10 92	(7)	69,51	101,16		158,25
1006 10 94	(7)	69,51	101,16		158,25
1006 10 96	(7)	69,51	101,16		158,25
1006 10 98	(7)	69,51	101,16		158,25
1006 20 11	252,43	84,01	121,88		189,32
1006 20 13	252,43	84,01	121,88		189,32
1006 20 15	252,43	84,01	121,88		189,32
1006 20 17	264,00	88,06	127,66	14,00	198,00
1006 20 92	252,43	84,01	121,88		189,32
1006 20 94	252,43	84,01	121,88		189,32
1006 20 96	252,43	84,01	121,88		189,32
1006 20 98	264,00	88,06	127,66	14,00	198,00
1006 30 21	(7)	133,21	193,09		312,00
1006 30 23	(7)	133,21	193,09		312,00
1006 30 25	(7)	133,21	193,09		312,00
1006 30 27	(7)	133,21	193,09		312,00
1006 30 42	(7)	133,21	193,09		312,00
1006 30 44	(7)	133,21	193,09		312,00
1006 30 46	(7)	133,21	193,09		312,00
1006 30 48	(7)	133,21	193,09		312,00
1006 30 61	(7)	133,21	193,09		312,00
1006 30 63	(7)	133,21	193,09		312,00
1006 30 65	(7)	133,21	193,09		312,00
1006 30 67	(7)	133,21	193,09		312,00
1006 30 92	(7)	133,21	193,09		312,00
1006 30 94	(7)	133,21	193,09		312,00
1006 30 96	(7)	133,21	193,09		312,00
1006 30 98	(7)	133,21	193,09		312,00
1006 40 00	(7)	41,18	(7)		96,00

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

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

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

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

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

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

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

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

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	(¹)	264,00	416,00	252,43	416,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	260,35	—	308,47	298,73	—
(b) fob price (EUR/tonne)	—	—	—	274,20	264,46	—
(c) Sea freight (EUR/tonne)	—	—	—	34,27	34,27	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 267/2002
of 13 February 2002
determining the world market price for ungin­ned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for ungin­ned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for ungin­ned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for ungin­ned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those

considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for ungin­ned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for ungin­ned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 23,995/100 kg.

Article 2

This Regulation shall enter into force on 14 February 2002.

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

Done at Brussels, 13 February 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 January 2002

authorising the Government of Portugal to grant aid to Portuguese pig farmers who were beneficiaries of the measures granted in 1994 and 1998

(2002/114/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the request made by the Government of Portugal on 23 November 2001,

Whereas:

- (1) The Portuguese pig sector is structurally in deficit and characterised by small farms with an average, in 1998, of 18 animals per farm (the Community average is 106), and 80 % of farms have fewer than 10 breeding pigs.
- (2) In relation to the European Union, purchases from other Member States accounted for 40 % of the final value of production of the Portuguese pig sector in the period from 1994 to 2000, whereas sales reached only 4 % of that value. In particular, the figures show that purchases from other Member States increased by 30 % in 1995 and by 47 % in 1999 in comparison with preceding years, and that sales were negligible.
- (3) In 1993, the Portuguese pig market witnessed a sharp drop in producer prices owing to an increase in supply, coinciding with the first year of the second stage of accession, which marked the start of full application of the common agricultural policy in this sector. This had a profound effect on the profitability of a large number of farms.
- (4) In 1998, the Portuguese market was also affected by the difficulties in the European pig sector, which experienced its worst crisis of the last decade. The crisis was largely due to a combination of surplus production in

the Union and the crisis on the Russian market, which accounted for 50 % of the Union's exports. Domestic prices registered sharp falls throughout the year, which once again adversely affected farmers' incomes.

- (5) The Community measures adopted in response to that crisis (export refunds, aid for private storage and food aid for Russia) had little effect on the Portuguese market.
- (6) In order to alleviate these two situations, which were affecting small farmers, who as a result were experiencing difficulties negotiating with credit institutions, the Portuguese government granted two aid measures, in 1994 and 1998.
- (7) The aid granted in 1994, implemented by Decree-Law No 146/94, gave beneficiaries the possibility of renegotiating loans they had obtained from credit institutions to invest in the modernisation of premises, health protection and environmental protection.
- (8) Furthermore, in 1998, faced with the severe crisis in the Community sector, the Portuguese authorities adopted emergency measures by Decree-Law No 4/99 to prevent cash-flow problems and successive bankruptcies by granting a moratorium on repayments of loans taken out with banks and interest rate subsidies in respect of such loans. This measure was limited to one year.
- (9) The aid amounted to EUR 10 million for 1994 and EUR 6,3 million for 1998 and the total number of beneficiaries was 2 116. As the pattern of trade shows, this aid did not have any particular effect on intra-Community trade and consequently did not cause any distortion of competition.

- (10) With respect to the aid granted in 1994, at the Commission's request the Portuguese authorities submitted a letter, registered on 27 May 1997, containing the information the Commission had requested.
- (11) With respect to the aid granted in 1998, the Portuguese authorities also submitted a letter to the Commission, registered on 21 December 1998, giving notification, in accordance with Article 88(3) of the Treaty, of the aid measures it had granted.
- (12) In its decisions of 25 November 1999 and 4 October 2000, the Commission held that the measures in question were not compatible with the common market. Pursuant to those decisions, the Portuguese authorities initiated a procedure to recover the aid granted.
- (13) However, refunding the aid granted threatens the economic viability of not a few beneficiaries and would have extremely damaging social effects in certain regions because 50 % of the pig herd is concentrated in less than 5 % of the territory.
- (14) Exceptional circumstances therefore exist, making it possible to consider such aid, by way of derogation and to the extent strictly necessary to remedy the imbalance

which has arisen, to be compatible with the common market on the terms specified in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Exceptional aid by the Portuguese Government to the Portuguese pig sector involving the grant of aid to beneficiaries covered by the Commission Decisions of 25 November 1999 and 4 October 2000, totalling not more than EUR 16,3 million, equivalent to the amounts which those beneficiaries must reimburse under those Decisions, shall be considered compatible with the common market.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 21 January 2002.

For the Council

The President

M. ARIAS CAÑETE

COUNCIL DECISION
of 21 January 2002
appointing a Netherlands member of the Economic and Social Committee

(2002/115/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 258 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 166 thereof,

Having regard to the Council Decision of 15 September 1998 appointing the members of the Economic and Social Committee for the period from 21 September 1998 to 20 September 2002 ⁽¹⁾,

Whereas a member's seat on that Committee has fallen vacant following the resignation of Mr J. J. van DIJK, of which the Council was informed on 15 October 2001;

Having regard to the nominations submitted by the Netherlands Government,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr E. van VELSEN is hereby appointed a member of the Economic and Social Committee in place of Mr J. J. van DIJK for the remainder of the latter's term of office, which runs until 20 September 2002.

Done at Brussels, 21 January 2002.

For the Council

The President

M. ARIAS CAÑETE

⁽¹⁾ OJ L 257, 19.9.1998, p. 37.

COUNCIL DECISION
of 28 January 2002
appointing a Finnish member of the Economic and Social Committee

(2002/116/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 258 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 166 thereof,

Having regard to the Council Decision of 15 September 1998 appointing the members of the Economic and Social Committee for the period from 21 September 1998 to 20 September 2002 ⁽¹⁾,

Whereas a member's seat on that Committee has fallen vacant following the resignation of Ms Tuulikki KANNISTO, of which the Council was informed on 25 April 2001;

Having regard to the nominations submitted by the Finnish Government,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Peter Johan Magnus BOLDT is hereby appointed a member of the Economic and Social Committee in place of Ms Tuulikki KANNISTO for the remainder of the latter's term of office, which runs until 20 September 2002.

Done at Brussels, 28 January 2002.

For the Council

The President

J. PIQUÉ I CAMPS

⁽¹⁾ OJ L 257, 19.9.1998, p. 37.

COMMISSION

COMMISSION DECISION

of 3 July 2001

on the State aid which Italy is planning to implement for Ilva Lamiere e Tubi Srl

(notified under document number C(2001) 1848)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2002/117/EC, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4(c) thereof,

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry ⁽¹⁾, and in particular Article 6(5) thereof,

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽²⁾ and having regard to their comments,

Whereas:

quently supplied further information which the Commission had requested in order to be able to establish that all the projects notified complied with the requirements for state aid to the steel industry laid down in the Steel Aid Code.

(2) By letter dated 26 March 1999, the Commission informed the Italian Government of its decision to initiate proceedings under Article 6(5) of the Steel Aid Code (aid C 19/99) in cases ex N 125/98, ex N 126/98 (ILT) and ex N 341/98 (Siderumbra SpA) and invited it to submit its comments. This decision was published in the *Official Journal of the European Communities* ⁽⁴⁾. The Commission invited interested parties to submit their comments on the aid.

(3) The Commission received comments from the United Kingdom. It forwarded them to Italy, which was given the opportunity to react; its comments were received by letter dated 14 January 2000, in which the Italian authorities informed the Commission that they were withdrawing the notifications relating to aid measures ex N 126/98 (ILT) and 341/98 (Siderumbra SpA) and that, accordingly, those measures were not going to be implemented.

(4) By letter dated 17 August 2000, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of aid measure ex N 125/1998 in favour of ILT. This decision was published in the *Official Journal of the European Communities* ⁽⁵⁾. The Commission invited interested parties to submit their comments on the aid.

I. PROCEDURE

(1) By letters dated 20 November 1997, 3 March 1998 and 12 June 1998, the Italian authorities notified the Commission, in accordance with Article 6(1) of Commission Decision No 2496/96/ECSC (hereinafter referred to as 'the Steel Aid Code'), that they intended to grant environmental aid to two steel companies: Ilva Lamiere e Tubi Srl (hereinafter 'ILT') (aid registered as N 126/98) and Siderumbra SpA (aid registered as N 341/98). They also notified, under Article 88(3) of the EC Treaty, aid for investment (registered as N 125/98) in ILT's tube-making facilities under Law No 488/92 of 19 December 1992 ⁽³⁾. The Italian authorities subse-

⁽¹⁾ OJ L 338, 28.12.1996, p. 42.

⁽²⁾ OJ C 332, 20.11.1999, p. 9, and OJ C 315, 4.11.2000, p. 7.

⁽³⁾ The law contained the 'organic framework for extraordinary aid to the Mezzogiorno and standards for subsidising production activities'.

⁽⁴⁾ OJ C 332, 20.11.1999, p. 9.

⁽⁵⁾ OJ C 315, 4.11.2000, p. 7.

- (5) The Commission received comments from the German Association of Steel Tube Producers (Wirtschaftsvereinigung Stahlrohre) and from the United Kingdom Steel Association. It forwarded them to Italy, which was given the opportunity to react; its comments were received by letter dated 15 January 2001.

II. DETAILED DESCRIPTION OF THE AID

- (6) ILT is based in Taranto and belongs to the Riva group, which is one of the main steel producers in the European Union. On the same site it manufactures both steel products covered by the ECSC Treaty, primarily hot-rolled plate or sheet, and Community steel products, primarily tubes. ILT has four hot-rolling installations for tube-making (two installations for longitudinal-welded large-diameter welded tubes (TUL/1 and TUL/2), one installation for electric-welded small-diameter tubes (ERW), one installation for spiral-welded large welded tubes (TUE)) and six coating installations for tubes.
- (7) Following the partial withdrawal of the notification referred to in recital 3, the aid subject to assessment in the present decision consists of a subsidy of ITL 7 707 million (EUR 3,98 million) towards investment of ITL 14 105 million (EUR 7,28 million) by ILT for the modernisation of its welded tube production facilities. It will be granted by the Ministry of Industry under Law No 488/92 for aid in depressed areas. The aid represents 37,46 % net grant equivalent (nge) of the eligible costs. The investments cover a number of measures involving all the tube makers and the tube-coating plant at Taranto and are aimed at improving the environmental conditions in the production process and modernising the plant so as to improve productivity (see annex for details).
- (8) Welded steel tubes are made from steel coils or plates (ECSC products) that are bent then welded. Intra-Community trade in steel tubes is intense.
- (9) In its decision to initiate proceedings under the EC Treaty, the Commission expressed doubts as to the effects of the investments on ILT's production capacities since the Italian authorities had not provided either details of ILT's existing capacities or details regarding the investments.

III. COMMENTS FROM INTERESTED PARTIES

- (10) By letter dated 4 December 2000, the United Kingdom Steel Association stated that the aid would have to be assessed under the rules of the ECSC Treaty and thus prohibited, as they do not permit the granting of regional aid. It also pointed out that, if the Commission were to assess the aid under the terms of the EC Treaty,

it should allow for the fact that the large welded steel tube sector suffers from structural overcapacity and that such aid would therefore distort competition within the Community.

- (11) By letter dated 15 November 2000, Wirtschaftsvereinigung Stahlrohre noted that there was a huge structural overcapacity in the market for welded tubes which gave rise to fierce competition: the capacity utilisation rate for medium and small welded steel tubes remained at about 59 % in the period 1992-2000 while the capacity utilisation rate for large welded tubes was around 44 % during the same period. Under these circumstances, the aid should not be allowed.

IV. COMMENTS FROM ITALY

- (12) The Italian authorities stated in their letter of 12 October 2000 that the risk of the aid being diverted to ILT's ECSC activities was non-existent, firstly because of the extremely rigorous statutory controls, checks and verifications before aid can be granted and, secondly, because, once the investment programme is complete, the Ministry of Industry checks individual invoices and accounts as well as the consistency of the programme and the identification particulars of plant, machinery and equipment.
- (13) As for the Commission's argument based on the overall improvement of ILT's financial situation as a result of the aid, the Italian authorities submit that it is entirely independent of the keeping of separate accounts and that ILT's situation is no different in this respect from that of another firm, Gröditzer Stahlwerke (see recital 17). Moreover, the commitment made by ILT that, if the aid is granted, it will allocate capital and reserves to a special capital and reserves provision (fondo del patrimonio netto) for the entire duration of the programme means that the available funds deriving from the management of the company for ECSC activities remain unchanged.
- (14) As for the Commission's doubts as to the effects of the investments on production capacities for large welded steel tubes, the Italian authorities insist that they will remain unchanged at 800 000 tonnes/year (250 000 tonnes for TUL/1 tubes and 550 000 tonnes for TUL/2 tubes) since none of the investments has an influence on the essential part of ILT's production process for tubes (the forming press for large longitudinal-welded tubes and the bending machine for small-diameter ERW tubes). The Italian authorities provided a detailed description of the investments, insisting that those more directly linked to the production process primarily concern automation and mechanisation.

- (15) Finally, the Italian authorities recall that the firm is located in a region (Apulia) covered by Article 87(3)(a) of the EC Treaty, with a maximum of 40 % nge for regional aid. The aided investment will bring economic and social benefits to the region by preserving jobs and potentially helping the local economy through the development of related activities.
- (16) As to the comments made by third parties, the Italian authorities pointed out in their letter of 27 February 2001 that the market for large welded tubes was a world market linked closely to international economic developments and, most importantly, to the price of oil. The extreme uncertainty of the oil market means that, at times, established production capacity is insufficient to cope with the demand stemming from investment projects in plant for gas and other pipelines, while at other times of market crisis, when oil prices are particularly low, this type of investment is drastically reduced, resulting in overcapacity. The Italian authorities consider that the capacity figures provided by the *Wirtschaftsvereinigung Stahlrohre* are purely abstract and theoretical and do not take account of the modification of production cycles required to produce tubes with the specific technical and qualitative characteristics appropriate to their final use. Italy submits here that the average utilisation rate given by the German authorities (40 %) would be completely incompatible with the sound financial management of a firm in a western economy.
- (18) Steel tubes are products which fall outside the scope of Annex I to the ECSC Treaty.
- (19) In the present case, the Commission notes that, although ILT is a single company which does not keep separate accounts for its various activities, the aided investments relate to specific installations which are clearly identified and physically distinct from the rest of the installations dedicated to the production of ECSC products. The products manufactured in these installations are downstream of the ECSC products and belong to clearly separate product markets.
- (20) Under these circumstances, in line with the decisions already adopted by it (see recital 17) ⁽⁸⁾, the Commission considers that there is no risk that the aid will benefit ILT's ECSC activities. The EC Treaty thus applies in the case in point.
- (21) The non-repayable grant at issue constitutes State aid within the meaning of Article 88(1) of the EC Treaty since it strengthens ILT's position compared to other undertakings competing in intra-Community trade. As for its compatibility with the common market, the following considerations apply.
- (22) The aid is granted under a scheme approved by the Commission ⁽⁹⁾ and, with one exception (feasibility study for the reinforcement of the O-press (TUL/2), see recital 25), complies with it as regards the purpose of the investments (modernisation) ⁽¹⁰⁾, the eligibility of costs (land, buildings, machinery and installations) and the aid intensity (40 % nge).

V. ASSESSMENT OF THE AID

- (17) Although ILT is an 'undertaking' within the meaning of Article 80 of the ECSC Treaty because it manufactures products referred to in Annex I to that Treaty, the Commission has accepted that the EC Treaty may apply to aid to non-ECSC activities carried on by an ECSC undertaking, provided that they are clearly distinct from the same undertaking's ECSC activities ⁽⁶⁾. In this connection, the Court of First Instance has ruled that the application of the ECSC Treaty to aid for investments relating to the non-ECSC activities of an ECSC company could not be justified unless in the absence of sufficient guarantees to ensure that the aid would not be misappropriated to benefit production activities covered by the ECSC Treaty ⁽⁷⁾.
- (23) However, since part of the investment relates to the large welded steel tubes subsector, the framework for certain sectors not covered by the ECSC Treaty ⁽¹¹⁾ requires prior notification. As stated in the decision initiating proceedings under the EC Treaty in the present case, the Commission, in assessing individual cases notified to it under that framework, takes into account the market situation in the subsector in which the undertaking is active, in particular whether or not there is structural overcapacity. After identifying the situation of the market where the company is active, the Commission assesses any effect the aided investment may have on that situation or on competition.

⁽⁶⁾ Commission Decision 1999/720/EC, ECSC of 8 July 1999 on State aid granted by Germany to Gröditzer Stahlwerke GmbH and its subsidiary Burg GmbH (OJ L 292, 13.11.1999, p. 27, recital 33) and Commission Decision of 28 March 2001 on the State aid which Italy is planning to implement for Ferriere Nord SpA (notified under number C(2001) 1010, not yet published).

⁽⁷⁾ Unofficial translation: Judgment of 5 June 2001 in Case T-6/99 ESF Elbe — Stahlwerke Feralpi GmbH v Commission, point 125 (not yet published in the ECR).

⁽⁸⁾ See footnote 6.

⁽⁹⁾ Letter of 30 June 1997 (ref. SG(97) D/4949) relating to State aid N 27/A/97.

⁽¹⁰⁾ Modernisation is defined in Law No 488/92 as an initiative aimed at bringing innovation to the firm in order to achieve an increase in productivity and/or an improvement in the environmental conditions connected with the production processes.

⁽¹¹⁾ OJ C 320, 13.12.1988, point 4.1(a).

- (24) The Commission notes that continued production overcapacity has existed in the steel tube sector since the mid-80s. It also acknowledges that authorising aid for companies operating in sectors characterised by structural overcapacity poses particular risks of distortion of competition and so, where the aided investment entails an expansion in capacity, it will require a reduction in the intensity of the aid in order to offset its negative effects on competition (see, for instance, the multisectoral framework on regional aid for large investment projects) ⁽¹²⁾. Having examined the information provided by the Italian authorities in their letter of 27 February 2001, the Commission notes that the investments benefiting from the aid do not entail increases in capacities. On the other hand, it notes that ILT is located in a region covered by Article 87(3)(a) of the Treaty and that the aid is granted under an approved scheme. Accordingly, the Commission considers that the negative effects on competition of the aid in question are offset by the benefits to the region.
- (25) As regards the aid of ITL 54 640 000 (EUR 28 219) towards the study for the reinforcement of the O-press, Italy claims that the feasibility studies are considered by it to be eligible costs under Circular 38522 of 15 December 1995, issued in accordance with Law No 488/1992, which was approved by the Commission (see recital 22).
- (26) The Commission notes, however, that this Circular considers economic feasibility and environmental impact studies to be eligible, to the extent of 3 % of the total eligible investment. In the present case, since reinforcement of the O-press has not been considered eligible, the feasibility study cannot be considered eligible either. Therefore, aid towards these costs has to be considered as ad hoc aid which, however, cannot be approved under the Commission communication on regional aid systems ⁽¹³⁾ because a study does not on its own constitute investment in fixed assets within the meaning of that communication.
- (27) Notwithstanding recital 26, in view of the small amount of the aid, it is covered by Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽¹⁴⁾. It does not therefore constitute State aid within the meaning of Article 87(1) of the EC Treaty provided that, for a three-year period, the total *de minimis* aid, including

the aid in question, to be granted to the undertaking does not exceed EUR 100 000.

VI. CONCLUSION

- (28) Accordingly, the State aid amounting to ITL 7 652 360 000 that Italy intends to grant to ILT under Law No 448/92 is compatible with the common market. The aid amounting to ITL 54 640 000 that Italy intends to grant to ILT for carrying out a feasibility study for the reinforcement of the O-press can be considered *de minimis* aid if it meets the conditions laid down in Commission Regulation (EC) No 69/2001,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Italy is planning to implement for Ilva Lamiera e Tubi Srl amounting to ITL 7 652 360 000 is compatible with the common market under Article 87(3)(a) of the EC Treaty.

Article 2

The State aid which Italy is planning to implement for Ilva Lamiera e Tubi Srl towards the feasibility study for the reinforcement of the O-press amounting to ITL 54 640 000 does not constitute State aid within the meaning of Article 87(1) of the EC Treaty provided that it meets the conditions laid down in Regulation (EC) No 69/2001.

Italy shall ensure that the abovementioned conditions are met.

Article 3

The proceedings initiated on 26 March 1999 under Article 6(5) of Commission Decision No 2496/96/ECSC concerning aid C 19/99 are hereby terminated.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 3 July 2001.

For the Commission

Mario MONTI

Member of the Commission

⁽¹²⁾ OJ C 107, 7.4.1998, p. 7.

⁽¹³⁾ OJ C 31, 3.2.1979, p. 9.

⁽¹⁴⁾ OJ L 10, 13.1.2001, p. 30.

ANNEX

List of investments benefiting from the aid

	ITL (million)	ITL (million)
Improvement of the dust recovery system, coating line No 3	129	66 623
Elimination of vibrations due to grinding operations	134	69 205
Fireproofing systems in the painting area, coating line No 3	850	438 988
Hydraulic stainless piping (TUL/2)	1 300	671 394
Replacement of hydraulic handling by electro-mechanical handling	850	438 988
Construction of 11 fume collection openings (TUL/2)	1 000	516 457
Renewal of information system (TUL/2)	2 073	1 070 615
Automation of the weighing machine and end-facer	400	206 583
Washing and cleaning of tubes (TUL/1)	500	258 228
Study for the reinforcement of the O-press (TUL/2)	100	51 646
Automation of tube handling and sorting (TUL/1 and TUL/2)	600	309 874
Preliminary internal examination with TV camera	592	305 742
Improvement of information system (ERW tube maker and coating line)	200	103 291
10 kW power source for ERW coating line	800	413 166
Automation of the external sandblasting area, coating line No 3	300	154 937
Tube-handling facilities	700	361 520
Welding heads (TUL/1)	97	50 096
Cutting of strips (TUL/2)	416	214 846
Adjustment of helicoidal tube maker operation	256	132 213
Installation for the regeneration of polyethylene	150	77 469
Adjustment of coating installation No 2 for FBE coating	1 808	933 754
Relocation of edging machine for coils (ERW coating line)	500	258 228
Coil head/end shearing (ERW coating line)	100	51 646
Optimisation cut-off (ERW coating line)	50	25 823
Replacement of the cut-off system (ERW coating line)	200	103 291
Total	14 105	7 284 625