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I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾

13 September 2004

(2004/C 229/01)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2236	LVL	Latvian lats	0,6613
JPY	Japanese yen	134,91	MTL	Maltese lira	0,4276
DKK	Danish krone	7,437	PLN	Polish zloty	4,398
GBP	Pound sterling	0,6801	ROL	Romanian leu	41 100
SEK	Swedish krona	9,0915	SIT	Slovenian tolar	239,91
CHF	Swiss franc	1,5417	SKK	Slovak koruna	40,075
ISK	Iceland króna	87,66	TRL	Turkish lira	1 839 000
NOK	Norwegian krone	8,3495	AUD	Australian dollar	1,7545
BGN	Bulgarian lev	1,9559	CAD	Canadian dollar	1,5816
CYP	Cyprus pound	0,5773	HKD	Hong Kong dollar	9,5437
CZK	Czech koruna	31,649	NZD	New Zealand dollar	1,8614
EEK	Estonian kroon	15,6466	SGD	Singapore dollar	2,0788
HUF	Hungarian forint	249,22	KRW	South Korean won	1 401,08
LTL	Lithuanian litas	3,4528	ZAR	South African rand	8,0192

⁽¹⁾ Source: reference exchange rate published by the ECB.

**Publication of an application for registration pursuant to Article 6(2) of Regulation (EEC)
No 2081/92 on the protection of geographical indications and designations of origin**

(2004/C 229/02)

This publication confers the right to object to the application pursuant to Articles 7 and 12d of the above-mentioned Regulation. Any objection to this application must be submitted via the competent authority in a Member State, in a WTO member country or in a third country recognised in accordance with Article 12(3) within a time limit of six months from the date of this publication. The arguments for publication are set out below, in particular under 4.6, and are considered to justify the application within the meaning of Regulation (EEC) No 2081/92.

COUNCIL REGULATION (EEC) No 2081/92

'TUSCIA'

EC No IT/00210/8.10.2001

PDO (X) PGI ()

This summary has been drawn up for information purposes only. For full details, in particular the producers of products covered by the PDO or PGI concerned, please consult the complete version of the product specification obtainable at national level or from the European Commission ⁽¹⁾.

1. *Responsible department in the Member State:*

Name: Ministero delle Politiche Agricole e Forestali
Address: Via XX Settembre, 20, I-00187 Roma
Tel.: (39) 06 – 481 99 68
Fax: (39) 06 – 420 13 126
E- mail: qualita@politicheagricole.it

2. *Group:*

2.1. Name: Consorzio per la tutela e la valorizzazione della produzione olivicola della provincia di Viterbo
2.2. Address: Via Matteotti, 73, I- 01100 Viterbo
2.3. Composition: producer/processor (x) other ()

3. *Type of product*

Class 1.5 – oils and fats – extra-virgin olive oil.

4. *Specification*

(summary of requirements under Article 4(2))

4.1. Name: 'Tuscia'

4.2. Description: extra-virgin olive oil with the following characteristics:

- colour: emerald green with a golden sheen,
- odour: fruity, evoking wholesome, fresh fruit harvested at the stage of optimal ripeness,
- taste: fairly fruity with balanced slightly bitter and spicy aftertaste,
- total maximum acidity, expressed in oleic acid, by weight, no greater than 0,5 grams per 100 grams of oil,
- peroxide number: ≤ 12 Meq O₂/kg.

⁽¹⁾ European Commission - Directorate-General for Agriculture - Agricultural product quality policy - B-1049 Brussels.

- 4.3. Geographical area: The area of production and processing of olives for the manufacture of Tuscia extra-virgin olive oil comprises the following municipalities in the Province of Viterbo, Region of Lazio: Acquapendente, Bagnoregio, Barbarano Romano, Bassano in Teverina, Bassano Romano, Blera, Bolsena, Bomarzo, Calcata, Canepina, Capodimonte, Capranica, Caprarola, Carbognano, Castel S. Elia, Castiglione in Teverina, Celleno, Civita Castellana, Civitella d'Agliano, Corchiano, Fabrica di Roma, Faleria, Gallese, Gradoli, Graffignano, Grotte di Castro, Latera, Lubriano, Marta, Montalto di Castro (in part), Montefiascone, Monteromano, Nepi, Oriolo Romano, Orte, Piansano, Proceno, Ronciglione, S. Lorenzo Nuovo, Soriano nel Cimino, Sutri, Tarquinia, Tuscania (in part), Valentano, Vallerano, Vasanello, Vejano, Vetralla, Vignanello, Villa S. Giovanni in Tuscia, Viterbo, Vitorchiano. For the municipalities that are only partly in the production zone, the specifications give details of the areas included.
- 4.4. Proof of origin: Olive oil first reached the area in the sixth century BC, as a result of the Etruscans' trading with the Phoenicians and the Greeks. Olive stones have been discovered at archaeological sites in southern Etruria, in the province of Viterbo.

The area of Tuscia, which now corresponds to the province of Viterbo, was originally part of Etruria, called by its Latin name of *Hetruria* or *Aetruria* by the inhabitants, known as Etruscans or Etrurians. From the second century AD, the Romans began to use the name of *Tusci* or *Tuscia* to identify the area. Over time, *Tuscia* became the official name of Etruria, and was established as such with the administrative reorganisation of ancient Italy introduced by the Emperor Diocletian (284 to 305). The main activities of the inhabitants of *Tuscia* included olive-growing and the production of olive oil, as is clear from the paintings discovered in Etruscan tombs. The Romans later also showed considerable interest in olive-growing, and produced olives in the *Villae* scattered throughout *Tuscia*, processing them in local presses; a typical example can be seen at *Civita di Bagnoregio*. In some local centres (e.g. *Fabrica di Roma* and *Civita Castellana*) ceramic containers for storage and transport of the oil have also been produced for centuries.

- 4.5. Method of production: *Tuscia* extra-virgin olive oil is obtained from olives of the *Frantoio*, *Caninese* and *Leccino* varieties, with at least 90 % of each grove consisting of one or more of these varieties. Other varieties may be present in a grove, but should not account for more than 10 % altogether.

Olives are one of the main crops of the area, with specialised plantations of a density of 150 to 300 trees per hectare, intensive plantations with over 300 trees per hectare, and mixed plantations with up to 100 trees per hectare.

In the specialised groves, the most commonly used shapes are bush, Y, cone and inverted cone; in the mixed groves, they are multi-branched vase and free. Some pruning is usually carried out annually, although rejuvenation pruning is less frequent.

Plant health protection practices follow the instructions of the integrated and supervised pest control services operating in the area. It is prohibited to treat the site with herbicide or desiccant.

The olives are harvested at that stage in their maturity when they begin to turn colour; harvesting is completed by 20 December for early cultivars (*Leccino*, *Frantoio*, *Maurino*, *Pendolino*) and by 15 January for late cultivars (*Caninese*, *Moraiolo*).

The use of products to encourage premature dropping and of abscission products is prohibited. Maximum olive output per hectare may not exceed 9 000 kg in the specialised groves, or 90 kg per tree in mixed or combined plantations. The olives are taken to the pressing plant within one day of harvesting, and processed no later than one day after delivery. They are transported in suitable containers.

Oil-production techniques must comply with the following requirements:

- washing with potable water at room temperature, sorting, removal of leaves,
- pressing with suitable presses,
- crushing at a temperature not exceeding 30° C for a period not exceeding 60 minutes,
- physical extraction with equipment for pressing, continuous centrifugation, percolation followed by pressing, or percolation followed by centrifugation,

- centrifugation of the oil must: the oil and the extracted oil must be immediately removed from proximity with residue of vegetable water using continuous stainless steel separators. Upon leaving the extraction plant, the oil should be at a temperature no higher than 28° C. The maximum oil yield must not exceed 20 %,
- it is prohibited to centrifuge the crushed-olive paste a second time without interruption (the processing method known as ripasso).

Growing, processing and bottling operations are all carried out in the specified area. The reasons for bottling within the area derive from the need to safeguard the special features and quality of Tuscia oil, by ensuring that the producers concerned can supervise the checks carried out by the outside control body. The protected designation of origin is of vital importance to the producers, and provides an opportunity to improve income, in line with the objectives and the approach of the Regulation. Moreover, the olive oil has traditionally been bottled in the area. In order to ensure product traceability, the producers intending to market extra-virgin olive oil under the protected designation must register their olive groves and processing and bottling plant in registers kept by the control body.

- 4.6. Link: The geomorphological features and landscape of Tuscia are specific. The mountain systems of the Volsini, Cimini and Sabatini surround a number of lakes, including the vast volcanic lakes Bolsena, Vico and Bracciano, and the smaller lakes Mezzano, Monterosi and Martignano. The diversity of hydrographic features is matched by similar aspects of the landscape, which is of volcanic origin. These features offer climate conditions that encourage the development of fauna and abundant flora. The excellent soil conditions and the presence of specific microclimates, owing in particular to the geomorphological features (hilly terrain dotted with lakes), mean that the area is especially suitable for olive-growing, so that Tuscia extra-virgin olive oil is quite typical and unique.

Olive oil is a very important ingredient in local cooking, which is very highly dependent on local production.

The climate is temperate, with a rainfall of about 900 mm a year, mostly from spring to autumn, except in the area of the Cimini hills, characterised by more extreme temperatures and abundant rainfall.

- 4.7. Inspection body:

Name: Camera di Commercio, Industria, Artigianato ed Agricoltura di Viterbo

Address: Via F.lli Rosselli, 4, I-01100 Viterbo.

- 4.8. Labelling: Extra-virgin olive oil must be marketed in glass or steel containers of a capacity not exceeding 5 litres.

It must be clearly and indelibly labelled not only with the details laid down in labelling standards, but also with the name 'Tuscia', protected designation of origin.

The label must also bear the graphic symbol showing the specific unequivocal logo for exclusive and consistent use with the designation. The graphic symbol has been specially designed on the basis of an ancient Etruscan terracotta antefix discovered at the excavation site at Acquarossa (Viterbo).

The antefix is dark ochre, with the word 'Tuscia' in a contrasting dark red. The logo is an integral part of the specifications, where it is described in detail, and shown in colour.

- 4.9. National requirements:
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GUIDELINES FOR THE EXAMINATION OF STATE AID TO FISHERIES AND AQUACULTURE

(2004/C 229/03)

1. LEGAL BASIS AND SCOPE

- 1.1. The application of State aid rules, laid down in Articles 87 to 89 of the EC Treaty, to the production of and trade in fisheries products is provided for in Article 19(1) of Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector ⁽¹⁾ and in Article 32 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the market in fishery and aquaculture products ⁽²⁾.

The principle of incompatibility of State aid with the common market, laid down in Article 87(1) of the Treaty, is subject to the derogations provided for in Article 87(2) and (3). It is within the framework of these Guidelines that the Commission intends to administer those derogations in the fisheries sector.

- 1.2. These Guidelines apply to the entire fisheries sector and concern the exploitation of living aquatic resources and aquaculture together with the means of production, processing and marketing of the resultant products, but excluding recreation and sport fishing which does not result in the sale of fisheries products.

They relate to all measures which constitute aid within the meaning of Article 87(1) of the Treaty, including any measure entailing a financial advantage in any form whatsoever funded directly or indirectly from the budgets of public authorities (national, regional, provincial, departmental or local) or from other State resources. The following, for example, are to be considered as aid: capital transfers, reduced-interest loans, interest subsidies, certain State holdings in the capital of undertakings, aid financed by special levies or parafiscal charges, aid granted in the form of State securities against bank loans, the reduction of or exemption from charges or taxes, including accelerated depreciation and the reduction of social contributions.

2. OBLIGATION TO NOTIFY STATE AID AND EXEMPTION FROM THIS OBLIGATION

The Commission reminds Member States of their duty to notify to the Commission their plans to grant new aid, in accordance with Article 88(3) of the Treaty and Article 2 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽³⁾.

Under the conditions specified in points 2.1 and 2.2, certain measures are, however, exempt from the notification requirement.

- 2.1. As laid down in Article 19(2) of Regulation (EC) No 2792/1999, Articles 87, 88 and 89 of the Treaty do not apply to obligatory financial contributions by Member States to measures co-financed by the Community and provided for under the development plans referred to in Article 3(3) of that Regulation and defined in Article 9(b) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽⁴⁾ or under Article 5 of Council Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels ⁽⁵⁾. Consequently, Member States should not notify such contributions to the Commission. Such contributions are not subject to these Guidelines.

⁽¹⁾ OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 2369/2002 (OJ L 358, 31.12.2002, p. 49).

⁽²⁾ OJ L 17, 21.1.2000, p. 22. Regulation as last amended by the 2003 Act of Accession.

⁽³⁾ OJ L 83, 27.3.1999, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽⁴⁾ OJ L 161, 26.6.1999, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽⁵⁾ OJ L 358, 31.12.2002, p. 57.

However, under Article 19(3) of Regulation (EC) No 2792/1999, measures which provide for public financing by Member States exceeding the provisions of that Regulation or of Regulation (EC) No 2370/2002 concerning obligatory financial contributions, as referred to in Article 19(2) of Regulation (EC) No 2792/1999, must be notified as State aid to the Commission. They are subject to these Guidelines.

In order to reduce the administrative burden which may result from an application of Article 19(3) of Regulation (EC) No 2792/1999, and to facilitate the disbursement of Community Structural funds, Member States have an interest to distinguish clearly between the obligatory financial contributions they intend to grant in order to co-finance Community measures within the framework of the Financial Instrument for Fisheries Guidance in compliance with Article 19(2) of Regulation (EC) No 2792/1999, which do not have to be notified, and State aid, which is subject to the notification requirement.

2.2. Member States do not have to notify aid in the fisheries sector which fulfils the conditions laid down in the group exemptions Regulations adopted by the Commission pursuant to Article 1 of Council Regulation (EC) No 994/1998 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽¹⁾. Such aid includes:

- aid fulfilling the conditions laid down in Commission Regulation (EC) No 1595/2004 of 8 September 2004 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products ⁽²⁾,
- aid for training fulfilling the conditions laid down in Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid ⁽³⁾,
- aid to research fulfilling the conditions laid down in Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises ⁽⁴⁾,
- aid for employment fulfilling the conditions laid down in Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment ⁽⁵⁾,
- aid fulfilling the conditions of any future Regulation adopted by the Commission pursuant to Article 1 of Regulation (EC) No 994/1998 and which applies to the fisheries sector.

2.3. 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 ⁽⁶⁾ does not apply to fisheries.

3. PRINCIPLES

3.1. In the fisheries sector, as well as in other economic sectors in the Community, the policy of the Community relating to State aid aims to prevent distortion of competition in the internal market.

State aid in the fisheries sector is only justified if it is in accordance with the objectives of the Competition Policy and the objectives of the Common Fisheries Policy, as set out in these guidelines, and, in particular, in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽⁷⁾ and Regulations (EC) No 2792/1999 and (EC) No 104/2000.

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ L 291, 14.9.2004

⁽³⁾ OJ L 10, 13.1.2001, p. 20. Regulation as amended by Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20).

⁽⁴⁾ OJ L 10, 13.1.2001, p. 33. Regulation as amended by Regulation (EC) No 364/2004 (OJ L 63, 28.2.2004, p. 22).

⁽⁵⁾ OJ L 337, 13.12.2002, p. 3.

⁽⁶⁾ OJ L 10, 13.1.2001, p. 30.

⁽⁷⁾ OJ L 358, 31.12.2002, p. 59.

- 3.2. It is essential to ensure consistency and coherence between Community policies in respect of the control of State aid and in respect of the use of Structural funds under the Common Fisheries Policy.

Therefore, as far as measures are eligible for Community funds, they will only be eligible for State aid if they comply with the criteria laid down in Regulation (EC) No 2792/1999. In no case may the rate of financial participation of State aid, expressed as percentage of eligible costs, exceed, in subsidy equivalent, the total rate of national and Community subsidies fixed by Annex IV to that Regulation.

The Commission will assess any aid for measures which are not covered by these Guidelines or by Regulation (EC) No 1595/2004 on a case-by-case basis, taking into account the principles set out in Articles 87, 88 and 89 of the Treaty and the Community's Common Fisheries Policy.

- 3.3. It is essential that no aid is granted in circumstances where Community law, and in particular rules of the Common Fisheries Policy, are not complied with. State aid may therefore only be considered compatible if, before granting any aid, the Member State concerned undertakes to verify that the measures financed and their effects comply with Community law. During the grant period, Member States must verify that the beneficiaries of the aid comply with the rules of the Common Fisheries Policy. If during the grant period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the grant must be reimbursed in proportion to the gravity of the infringement.
- 3.4. In order to ensure that the aid is necessary and acts as an incentive to develop certain activities, no aid for activities in which the beneficiary would already engage under market conditions alone may be deemed to be compatible with the common market. No aid should be granted in respect of activities which have already been undertaken by the beneficiary.
- 3.5. State aid may not be protective in its effect: it must serve to promote the rationalisation and efficiency of the production and marketing of fishery products. Any such aid must yield lasting improvements so that the industry can develop solely on the basis of market earnings.
- 3.6. State aid to the export of or to trade in fishery products within the Community is incompatible with the common market.
- 3.7. State aid which is granted without imposing any obligation serving the objectives of the Common Fisheries Policy on the part of recipients and which is intended to improve the situation of undertakings and increase their business liquidity or is calculated on the quantity produced or marketed, product prices, units produced or the means of production, and which has the effect of reducing the recipient's production costs or improving the recipient's income is, as operating aid, incompatible with the common market. The Commission intends to apply this rule with rigour to all operating aid, including aid in forms of tax relief, or of reductions of contributions to social security or to unemployment benefit systems.
- 3.8. In the interest of transparency, no State aid may be declared compatible by the Commission if the Member State concerned has not communicated the total amount of aid per measures as well as the aid intensity.

In accordance with the established practice of the Commission, thresholds should normally be expressed in terms of aid intensities in relation to a set of eligible costs, rather than in terms of maximum aid amounts. However, account is taken of all factors making it possible to assess the real advantage to the recipient.

The cumulative effect for the recipient of all measures involving an element of subsidy granted by the State authorities pursuant to Community, national, regional or local law, particularly those that are designed to promote regional development, is taken into account when State aid schemes are being assessed.

- 3.9. Guidelines on national regional aid ⁽¹⁾ do not apply in this sector. The components of regional aid schemes involving the fisheries sector will be examined on the basis of the present Guidelines.
- 3.10. State aid for categories of measures covered by Regulation (EC) No 1595/2004, but which is designed to benefit enterprises other than SMEs, or exceeds the threshold laid down in Article 1(3) of that Regulation, will be assessed on the basis of these Guidelines and of the criteria laid down for each category of measures in the Articles 4 to 13 of that Regulation.

4. AID WHICH MAY BE DECLARED COMPATIBLE

4.1. Aid falling within the scope of certain horizontal guidelines

- 4.1.1. State aid for environmental protection will be assessed in accordance with the Community guidelines on State aid for environmental protection ⁽²⁾. In addition to the requirements of those guidelines, State aid for environmental protection will not be declared compatible if it concerns the capacity of a vessel or serves to increase the effectiveness of its fishing gear.
- 4.1.2. State aid aimed at rescuing and restructuring firms in difficulty will be assessed in accordance with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽³⁾. In addition to the requirements of those guidelines, State aid aimed at restructuring firms the activity of which includes fishing at sea may be granted only when an appropriate plan designed to reduce the fleet capacity beyond what is mandatory under Community law has been submitted to the Commission.

4.2. Aid for the permanent withdrawal of fishing vessels through their transfer to third countries

Aid for the permanent withdrawal of fishing vessels through their transfer to third countries, which is not linked to the purchase or construction of new vessels, is compatible with the common market provided that it meets the requirements of Regulation (EC) No 2792/1999 for eligibility for Community aid, and in particular Article 7(3)(b), Article 7(5)(b) and (c), and Article 8 of, and points 1.1 and 1.2 of Annex III to that Regulation.

In accordance with Article 11(3) of Regulation (EC) No 2371/2002, no exit from the fleet supported by State aid will be permitted unless preceded by the withdrawal of the fishing licence as defined in Council Regulation (EC) No 3690/1993 of 20 December 1993 establishing a Community system laying down rules of the minimum information to be contained in fishing licences ⁽⁴⁾ and, where provided for, the fishing authorisations as defined in the relevant regulations.

4.3. Aid for the temporary cessation of fishing activities

- 4.3.1. Aid for the temporary cessation of fishing activities may be deemed compatible if it complies with the conditions of Article 16 of Regulation (EC) No 2792/1999.

⁽¹⁾ OJ C 74, 10.3.1998, p. 9. Guidelines as amended by Amendments to the Guidelines on national regional aid (OJ C 258, 9.9.2000, p. 5).

⁽²⁾ OJ C 37, 3.2.2001, p. 3.

⁽³⁾ OJ C 288, 9.10.1999, p. 2.

⁽⁴⁾ OJ L 341, 31.12.1993, p. 93.

In the case of a temporary cessation of fishing activities established within the framework of a recovery plan or a management plan, State aid may only be declared compatible if the plan has been adopted pursuant to Article 5 or 6 of Regulation (EC) No 2371/2002.

In the case of a temporary cessation of fishing activities established within the framework of an emergency measure, State aid may only be declared compatible if the measure has been decided by the Commission in accordance with either Article 7 of Regulation (EC) No 2371/2002 or Article 45(1) of Council Regulation (EC) No 850/1998 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms ⁽¹⁾, or by one or more Member States in accordance with either Article 8 of Regulation (EC) No 2371/2002 or Article 45(2) of Regulation (EC) No 850/1998.

- 4.3.2. In accordance with Article 12(6) of Regulation (EC) No 2792/1999, accompanying social measures for crew members of affected fishing vessels in order to facilitate temporary cessation of fishing activities in the framework of plans for the protection of aquatic resources may be deemed compatible.

The cessation of activities must be adopted by a Member State under Article 8, 9 or 10 of Regulation (EC) No 2371/2002, or under Article 46 of Regulation (EC) No 850/1998, or under Article 13 of Council Regulation (EC) No 88/98 of 18 December 1997 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound ⁽²⁾, or under Article 1(3) of Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean ⁽³⁾.

The plans for the protection of aquatic resources must include, in addition to the temporary cessation of activities, effective measures designed to reduce fishing mortality, for example by reducing fishing capacity permanently or adopting technical measures. The plans must be notified to the Commission and contain precise and measurable objectives and a time frame.

The Commission will request without delay the opinion of the Scientific, Technical and Economic Committee as provided for in Article 33(1) of Regulation (EC) No 2371/2002 on the plans. Evidence of the social impact of the plans and justification of special measures going beyond the normal social security regime must be provided. Crew members are only those persons engaged on board of an operational seagoing fishing vessel as a main occupation. Aid to vessel owners will not be eligible, except for those vessel owners whose main occupation is to work on board of their vessel.

Scientific and, where necessary, economic justification of such aid must accompany the notification of the measure to the Commission. Measures must not go beyond what is strictly necessary in order to attain the objective pursued and must be of limited duration. Overcompensation is to be avoided.

The granting of compensation by a Member State may last for one year and may be extended by one additional year.

- 4.3.3. State aid as specified in points 4.3.1 and 4.3.2 may only offset part of the loss of income associated with a temporary cessation measure.
- 4.3.4. Aid to restrict fishing activities which is introduced by a Member State for the purpose of reducing its fishing effort under Article 16(2) of Regulation 2371/2002 is not allowed.

⁽¹⁾ OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 602/2004 (OJ L 97, 1.4.2004, p. 30).

⁽²⁾ OJ L 9, 15.1.1998, p. 1. Regulation as last amended by Regulation (EC) No 812/2004 (OJ L 150, 30.4.2004, p. 12).

⁽³⁾ OJ L 171, 6.7.1994, p. 1. Regulation as last amended by Regulation (EC) No 813/2004 (OJ L 150, 30.4.2004, p. 32).

4.4. Aid for investment in the fleet

4.4.1. Aid for the renewal of fishing vessels may be deemed compatible with the common market subject to the requirements of Articles 9 and 10 of, and point 1.3 of Annex III to Regulation (EC) No 2792/1999 and provided that the sum of the State aid does not exceed, in subsidy equivalent, the total rate of national and Community subsidies fixed by Annex IV to that Regulation.

No aid may be granted to shipyards for the construction of Community fishing vessels. Aid to shipyards for building, repair or conversion of non Community fishing vessels are subject to the Framework on State aid to shipbuilding ⁽¹⁾.

4.4.2. Aid for the modernisation and equipment of fishing vessels may be deemed compatible with the common market subject to the requirements of Articles 9 and 10 of, and point 1.4 of Annex III to Regulation (EC) No 2792/1999 and provided that the sum of the State aid does not exceed, in subsidy equivalent, the total rate of national and Community subsidies fixed by Annex IV to that Regulation.

4.4.3. Aid specified in points 4.4.1 and 4.4.2 may only be granted if the provisions of Article 13 of Regulation (EC) No 2371/2002, of Commission Regulation (EC) No 1438/2003 of 12 August 2003 laying down implementing rules on the Community Fleet Policy as defined in Chapter III of Council Regulation (EC) No 2371/2002 ⁽²⁾ and, where relevant, of Council Regulation (EC) No 639/2004 of 30 March 2004 on the management of fishing fleets in the Community outermost regions ⁽³⁾ are complied with.

4.4.4. Aid for the purchase of used vessels is deemed compatible with the Common Market only if it complies with the provisions of Article 12(3)(d) and Article 12(4)(f) of Regulation (EC) No 2792/1999.

4.4.5. No State aid for investment in the fleet will be deemed compatible or granted by a Member State for measures in relation to which Community financial assistance has been suspended under Article 16(1) of Regulation (EC) No 2371/2002.

4.5. Socio-economic measures

Income support to workers in the fisheries and aquaculture sector and to workers employed in the processing and marketing of fishery and aquaculture products may be considered compatible with the common market provided that it forms part of socio-economic back-up measures compensating income losses linked to measures designed to achieve an adjustment of capacity adopted pursuant to Article 11(1) of Regulation (EC) No 2371/2002. Such aid will be assessed on a case-by-case basis, in line with the principles set out in point 3. In case of temporary cessation of fishing activity, point 4.3 applies.

4.6. Aid to make good damage caused by natural disaster or exceptional occurrences

According to Article 87(2)(b) of the Treaty, aid to make good damage caused by natural disasters or exceptional occurrences is deemed to be compatible with the common market.

In order for such aid to be considered compatible with the common market, the level of damages caused by natural disasters or exceptional occurrences must reach a threshold of 20 % of the average turnover of the firm concerned in the previous three years in Objective 1 regions as defined in Article 3 of Regulation (EC) No 1260/1999, and including the regions defined in Article 6(1) of that Regulation, and 30 % in other areas.

⁽¹⁾ OJ C 317, 30.12.2003, p. 11.

⁽²⁾ OJ L 204, 13.8.2003, p. 21. Regulation as amended by Regulation (EC) No 916/2004 (OJ L 163, 30.4.2004, p. 81).

⁽³⁾ OJ L 102, 7.4.2004, p. 9.

Once the existence of a natural disaster or an exceptional occurrence has been demonstrated, an aid of up to 100 % to compensate for material damage is permitted. Compensation should be calculated at the level of the individual beneficiary and overcompensation must be avoided. Amounts received under an insurance scheme or normal costs not incurred by the beneficiary must be deducted. Damages which could be covered by an ordinary commercial insurance contract or represent normal entrepreneurial risk are not eligible for aid.

Any compensation must be granted within three years of the event to which it relates.

4.7. **Outermost regions**

Where provisions of Community law specifically address outermost regions, as it is the case for the provisions laid down in Annex IV to Regulation (EC) No 2792/1999 on aid intensities for investments in the fisheries sector, the Commission will only declare an aid to the fisheries sector in those regions compatible as far as it complies with those provisions. In relation to measures for which no specific provisions for outermost regions are provided for, aid designed to meet the needs of outermost regions will be assessed on a case-by-case basis, and having regard to the factors characteristic of these regions identified in Article 299(2) of the Treaty on the one hand, the compatibility of the measures concerned with the objectives of the Common Fisheries Policy and the potential effect of the measures on competition in these regions and in the other parts of the Community on the other hand.

4.8. **Aid financed through para-fiscal charges**

Aid schemes funded by special charges, in particular para-fiscal charges, imposed on certain fishery and aquaculture products irrespective of their origin, may be deemed compatible where aid schemes benefit both domestic and imported products, and where the aid as such complies with the conditions of these guidelines.

5. **PROCEDURAL MATTERS**

The Commission recalls that the provisions of Regulation (EC) No 659/1999 and its implementing provisions apply.

In particular, where a negative decision is adopted by the Commission on an aid which has been granted without having been notified to and approved by the Commission, Member States are obliged to recover the aid from the beneficiary, with interest, under the conditions laid down in Article 14 of Regulation (EC) No 659/1999.

In the interest of accelerating the examination of aid measures, Member States are advised to fill in the forms provided for in part I and part III.14 of Annex I to Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾.

5.1. **Re-notification and annual report**

In order for the Commission to be able to fulfil its duty to keep under constant review all systems of aid existing in the Member States, Member States should re-notify to the Commission open-ended schemes at the latest two months before the tenth anniversary of their entry into force.

Article 21 of Regulation (EC) No 659/1999 provides that Member States are to submit to the Commission annual reports on all existing aid schemes to which no specific reporting obligations have been imposed in a conditional decision. Individual aid granted outside an approved aid scheme must also be included in those reports. The annual report must contain all relevant information as indicated in the form in Annex III C to Commission Regulation (EC) No 794/2004.

⁽¹⁾ OJ L 140, 30.4.2004, p. 1.

5.2. **Proposals for appropriate measures**

These guidelines replace the earlier Guidelines for the examination of State aid to fisheries and aquaculture ⁽¹⁾ as a result of the development of the Common Fisheries Policy, notably through the adoption of Regulation (EC) No 2369/2002 which amended Regulation (EC) No 2792/1999, and of Regulation (EC) No 2371/2002 and of Regulation (EC) No 1595/2004.

The Commission will amend these guidelines as and when experience is gained in the regular examination of inventories of State aids and in the light of the development of the Common Fisheries Policy.

In accordance with Article 88(1) of the Treaty and Article 18 of Regulation (EC) No 659/1999, the Commission proposes that Member States amend their existing aid schemes relating to aids in the fishery sector to conform to these guidelines by 1 January 2005 at the latest.

The Member States are invited to confirm that they accept these proposals for appropriate measures in writing by 15 November 2004 at the latest.

In the event that a Member State fails to confirm its acceptance in writing before that date, the Commission will assume that the Member State concerned has accepted these proposals, unless it explicitly indicates its disagreement in writing.

Should a Member State not accept the whole or part of these proposals by that date, the Commission will proceed in accordance with Article 19(2) of Regulation (EC) No 659/1999.

5.3. **Date of application**

The Commission will apply these guidelines with effect from 1 November 2004 to any State aid notified upon or after that date.

An 'unlawful aid' within the meaning of Article 1(f) of Regulation (EC) No 659/1999 will be appraised in accordance with the guidelines applicable at the time when the administrative act setting up the aid has entered into force.

Reference made in these guidelines to Community law or Commission guidelines must be interpreted as including a reference to any change in those instruments after 1 November 2004.

⁽¹⁾ OJ C 19, 20.1.2001, p. 7.

Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/C.2/37.214 — Joint selling of the media rights to the German Bundesliga

(2004/C 229/04)

(Text with EEA relevance)

1. Introduction

- (1) On 25 August 1998, the German Football Federation (Deutsche Fußballbund (DFB)) applied for negative clearance or, failing this, an individual exemption under Article 81(3) of the EC Treaty in respect of the joint selling of television and radio broadcasting rights and rights to other technical forms of exploitation⁽¹⁾ for matches in the first and second national football divisions (Bundesliga and 2. Bundesliga respectively). On 30 October 2003, pursuant to Article 19(3) of Council Regulation No 17, the Commission announced in a notice in the Official Journal of the European Union its intention to take a favourable view of an amended central marketing system⁽²⁾; it subsequently received comments from interested third parties.

2. Preliminary Assessment

- (2) The Commission informed the DFB and the League Association (Ligaverband) by letter dated 18 June 2004 of its preliminary assessment within the meaning of Article 9(1) of Regulation (EC) No 1/2003.
- (3) According to the Commission's preliminary assessment, the problems lie in the transfer of the media rights to the Bundesliga and 2. Bundesliga from the clubs to the League Association and the subsequent central selling. In the selling agreements, the League Association determines the price and the nature and scope of exploitation. Through the agreement on central selling and the subsequent joint selling, the clubs are prevented from dealing independently with television and radio operators and/or sport rights agencies. Competition in the sale of rights is excluded. The clubs are prevented in particular from taking independent commercial decisions about the price or structuring the nature and scope of the rights sale differently from the joint selling system.
- (4) In addition, according to the preliminary assessment, central selling has an adverse effect on the downstream relevant television markets and markets in the new media, since the possibility of supplying football content plays an important role in competition between programme suppliers for advertising revenues and subscribers or pay-per-view customers.

3. Commitments

- (5) The League Association subsequently confirmed its commitments presented under the previous notification procedure, which take account of the comments submitted under Article 19(3) of Regulation No 17, and are now within the meaning of Article 9(1) of Regulation (EC) 1/2003. The commitments are briefly summarised in what follows and published in full on the website of the Directorate-General for Competition.
- (6) The league rights are offered in several packages in a transparent, non-discriminatory procedure. The duration of the agreements concluded with both the agents and the sublicense holders will not exceed three seasons.
- (7) Live broadcasts of the Bundesliga and the 2. Bundesliga are offered by the League in particular in two packages, both for free TV and for pay TV programme suppliers. A third package entitles the acquirer of the live broadcast to at least two Bundesliga matches and to deferred highlight first coverage on free TV. A fourth package covers live games of the 2. Bundesliga and the rights to deferred highlight first coverage on free TV. Second and third exploitation rights are offered in a fifth package. Packages 3 to 5 can each be sold to several exploiters.

⁽¹⁾ The joint selling right covers all types of broadcasting right: free TV, pay TV and pay per view TV; terrestrial broadcasting, cable or satellite broadcasting; live or deferred broadcasting; showing of the entire event, of extracts or of compiled highlights; and radio. It also covers rights for all kinds of existing and future technical facilities such as UMTS, the internet or business TV.

⁽²⁾ OJ C 261, 30.10.2003, p. 13.

- (8) Package 6 contains the right to broadcast Bundesliga and 2. Bundesliga matches live and/or near-live on the Internet. From 1 July 2006, the package contains the right to broadcast the matches live and near-live. The League Association will, on every day on which games are held, offer a total of at least 90 minutes live coverage of the matches on the Internet, e.g. in the form of a conference channel. A seventh package comprises deferred highlights coverage. Package 8 contains the right to broadcast Bundesliga and/or 2. Bundesliga matches live and/or near-live and/or after the event on mobile phones. Package 9 confers the right to the deferred broadcast of excerpts from Bundesliga and/or 2. Bundesliga matches on mobile phones.
- (9) Every club can sell its home games to a free-TV broadcaster 24 hours after the match for one-off free-TV broadcasting of up to the full match within the EEA.
- (10) One and a half hours after the end of a match, every club can exploit a summary of its home and away games of up to 30 minutes on the Internet. From 1 July 2006, after the end of the match every club can cover its home and away games on its homepage or that of a third party without restriction as to length. Every club can sell the coverage of its home games on mobile phone networks within the EEA to the operators of those networks. Every club can exploit its home games on free-to-air radio after the end of the match without restriction. In the case of live transmissions, exploitation may not exceed 10 minutes per half.
- (11) The abovementioned rights may not be sold in such a way that a product can be devised by an exploiter which clashes with the interests of the DFB and the League Association or the acquirers of packages 1 to 9 in having a uniform product and jeopardises the advantages of branding and the one-stop shop.
- (12) According to the parties' proposal, unused rights may be exploited by the clubs. However, the League Association remains entitled to parallel, non-exclusive marketing of the corresponding package. This applies when the Association has failed to sell certain rights covered by the joint selling procedure. If, 14 days after the first match day of the football year, no agreement with an exploiter is reached about one of the above packages in accordance with the rights defined therein, the clubs may, from that time until the end of the season, exploit their home games themselves in accordance with the rights covered by the unused exploitation package. Clubs are also entitled to sell rights where the holder of those rights, for no objective reason, fails to use them.
- (13) The changes relating to television as presented on the Internet will enter into force on 1 July 2006. All other changes apply from 1 July 2004. The transitional stage makes it possible to take gradual account of competition doubts without jeopardising the operation of the Bundesliga and the 2. Bundesliga.
- (14) Future licence agreements are not covered by the marketing model presented. A separate examination under Community law cannot be ruled out in this respect, in particular where several centrally marketed packages with exclusive exploitation rights are cumulatively acquired by one exploiter.

4. The Commission's intention

- (15) The Commission intends, subject to market testing, to adopt a decision under Article 9(1) of Regulation (EC) 1/2003 declaring the commitments summarised above and published on the Internet on the website of the Directorate-General for Competition to be binding. To this end, it invites interested third parties to submit their comments to it within one month of the publication of this notice.
- (16) Interested third parties are also asked to submit a non-confidential version of their comments, in which commercial secrets and other confidential passages are deleted and are replaced as required by a non-confidential summary or by the words '[commercial secrets]' or '[confidential]'.

- (17) Comments should be sent to the following address, mentioning the reference 'COMP/C-2/37.214 — Joint selling of media rights to the Bundesliga':

European Commission
Directorate-General for Competition
Antitrust Registry
B-1049 Brussels
Fax (32-2) 295 01 28

Non-opposition to a notified concentration**(Case No COMP/M.3545 — REWE/ASP)**

(2004/C 229/05)

(Text with EEA relevance)

On 3 September 2004, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in German and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://europa.eu.int/comm/competition/mergers/cases/>) free of charge. This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form in the 'CDE' version of the CELEX database, under document number 32004M3545. CELEX is the computerized documentation system of European Community law. (<http://europa.eu.int/celex>)

Non-opposition to a notified concentration**(Case No COMP/M.3539 — GOLDMAN SACHS/QMH)**

(2004/C 229/06)

(Text with EEA relevance)

On 7 September 2004, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://europa.eu.int/comm/competition/mergers/cases/>) free of charge. This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form in the 'CEN' version of the CELEX database, under document number 32004M3539. CELEX is the computerized documentation system of European Community law. (<http://europa.eu.int/celex>)
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